IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9748 of 2025
AND
WMP NO. 10924 OF 2025,WMP NO. 10923 OF 2025

Bhandari Construction and Developers
Pvt Ltd
rep by its Atish kumar Ojha Ground
Floor, Plot No.12 Block No.9,
Manali New Town, Edayanchavadi,
Chennai, Tamil Nadu, 600103

Petitioner(s)

Vs

The Deputy State Tax Officer1
Krishnagiri-I Circle

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, to call for records order bearing Reference No ZD3308030382641 dated 08.08.2023 on the file of the Respondent and quash the same.

For Petitioner(s): Mr. Prince Simon

For Respondent(s): Ms.P.Selvi,
Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records in order bearing Reference No ZD3308030382641 dated 08-08-2023, on the file of the Respondent and quash the same.

2.Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, a notice was issued under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 (in short, 'the Act') for the financial year 2019-20 based on a proposal received from the STO (Legal and Revision-2) (INT), Salem based on a surprise inspection, wherein, according to the respondent, the petitioner was non-existent at the given address. He also submitted that the petitioner submitted a detailed reply to the notice on 05.08.2023, addressing all the queries rasied and enclosing documentary evidence in support of their stand.

However, without providing a personal hearing as per DRC-01 notice dated 28.07.2023 which provided an opportunity of personal hearing on 31.08.2023, the respondent passed the impugned order dated 08.08.2023, which is in violation of principles of natural justice and hence, the learned counsel would contend that the same cannot be sustained. He would further submit that the petitioner is ready and willing to pay 25% of the impugned demand tax and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it appears that as per DRC-01 notice dated 28.07.2023, the petitoiner was given an opportunity of a personal hearing on 31.08.2023, however, even before this, the respondent passed the impugned order on 08.08.2023. When such being the case, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8.For the reasons stated above, this Court is inclined to set aside the impugned order dated 08.08.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20-03-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

The Deputy State Tax Officer1
Krishnagiri I Circle

KRISHNAN RAMASAMY J.

rst

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