IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.02.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6937 of 2025
and
W.M.P.Nos.7655 & 7659 of 2025

Tvl Sre Venkatachalapathi Handlooms
Rep. by its Proprietor- Vengatasalam Krishnasamy
Paneerselvam Street 65 Punjai Puliampatti
Sathyamangalam, Erode, Tamil Nadu- 638459. ...Petitioner

Vs.

The State Tax Officer
office of the cmmercial tax officer
Sathyamangalam Erode, T.N. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the impugned proceedings passed by the Respondent in the impugned order vide GSTIN 33ABQPV3643R1ZP/2020-21 dated 06.12.2024 and summary of order in FORM GST DRC 07 bearing no. ZD3312240487596 dated 06.12.2024 passed under section 73 of the act along with consequential proceedings rejection order of rectification vide GSTIN 33ABQPV3643R1ZP /2020-2021 dated 18.02.2025 and a summary of rejection order of rectification vide ref no. ZD330225168821H dated 18.02.2025 to quash the same.

For Petitioner : M/s.R.Hemalatha
For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

Order

Heard M/s.R.Hemalatha learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik learned Additional Government Pleader (T), who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 06.12.2024 and summary of order in FORM GST DRC 07 dated 06.12.2024 along with consequential proceedings rejection order of rectification dated 18.02.2025 and a summary of rejection order of rectification dated 18.02.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices Tab", the same were unnoticed by the petitioner, hence, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, impugned order came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. However, it is stated that the petitioner is also ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Additional Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 10% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court pass the following orders/directions:-

i) The impugned order passed by the respondent dated 06.12.2024, summary of order dated 06.12.2024, along with consequential proceedings, rejection order of rectification dated 18.02.2025 and summary of rejection order of rectification are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.02.2025

sd

Index : yes/no
Neutral Citation : yes/no

To
The State Tax Officer
office of the cmmercial tax officer
Sathyamangalam Erode, T.N.

Krishnan Ramasamy,J.,

sd

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