IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7653 of 2025

M/s. Shree Jayalakshimi Binding Works
rep. By its Partner, K.S.Praveen ...Petitioner

Vs.

1 The Deputy Commissioner of Central Tax
Parrys Division, Range-IV,
Chennai North, Newry Towers,No.2054,
1 Block, II Avenue, 12th Main Road,
Anna Nagar, Chennai – 600 040.

2. The Assistant Commissioner of Central Excise and GST,
Parrys Division Range-IV,
Chennai North, Newry Towers,No.2054,
1 Block, II Avenue, 12th Main Road,
Anna Nagar, Chennai – 600 040.

...Respondents

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 of the first respondent in Form GST RFD-06 with Speaking Order No.39/2024 dated 26.03.2024 and to quash the same as devoid of merit and in violation of principles of natural justice.

For Petitioner : Mr.M.Varun Pandian

For Respondents : Mr.Sai Srujan Tayi,
Senior Standing Counsel
assisted by Ms.Pooja Jain,
Junior Standing Counsel

Order

Heard Mr.M.Varun Pandian, learned counsel appearing for the petitioner and Mr.Sai Srujan Tayi, learned Senior Standing Counsel assisted by Ms.Pooja Jain, learned Junior Standing Counsel who takes notice on behalf of the respondents. 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 first respondent in Form GST RFD-06 with Speaking Order No.39/2024 dated 26.03.2024 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not received any notice before passing the impugned order; that the alleged show cause notice dated 27.02.2024, was neither served through petitioner's on-line portal nor through any other modes of service contemplated under Section 169(1) of the CGST Act, and hence, the impugned order passed by the respondent is an ex parte order, as, no personal hearing was provided and liable to be set aside.

4. The learned Senior Standing Counsel for respondents would submit that the petitioner was issued with a personal hearing notice, and it is the petitioner, who failed to utilize the same, and therefore, the respondent cannot be found fault with, however, he fairly submits that in the event, this Court feels that one more opportunity has to be granted to the petitioner, then, appropriate orders with regard to setting aside of the impugned order may be passed as the Court deems fit and proper.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the present case, the petitioner made an application seeking for refund of excess tax paid by them. The second respondent, on receipt of the said application issued a deficiency memo dated 02.01.2024 and asked the petitioner to cure the defects. The defects pointed out by the second respondent was rectified and the application was submitted onceagain along with necessary documents on 02.02.2024. However, by virtue of the impugned order, the application came to be rejected.

6.1 It is the grievance of the petitioner that the impugned order has been passed without issuing any notice of personal hearing to the petitioner, and therefore, the same suffers from violation of principles of natural justice and the same is liable to be set aside.

6.2 However, it is the contention of the respondent that opportunity of personal hearing was granted, but, the petitioner failed to utilize, which contention was strongly refuted by the petitioner by stating that the notice dated 27.02.2024 that was alleged to sent to the petitioner, was neither sent through the petitioner's portal nor served through any other modes of service.

6.3 Be that as it may, there is no dispute on the aspect that the impugned order came to be passed without hearing the petitioner. Even assuming that the petitioner is not entitled to refund, before taking any such adverse decision, the petitioner ought to have been heard, but, in the present case, no such opportunity has been provided. Therefore, this Court, in the interest of justice, is inclined to grant one more opportunity to the petitioner.

6.3 Accordingly, this Court is inclined to pass the following order/direction:-

i) The impugned order passed by the respondent dated 26.03.2024 is set aside and the matter is remanded back to the respondent for fresh consideration.

ii) The petitioner is directed to file reply within two weeks from the date of receipt of a copy of this order.

iii) Thereafter, the respondent is directed to issue a 14 clear date notice affording an opportunity of personal hearing to the petitioner and thereafter, shall decide the issue in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs.

07.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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