IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8164 of 2025
and
W.M.P.No.9147 of 2025

M.s.Meenakshi Construction
Represented by its proprietor Mr. Harsh Goyal
No.4/ 1153 Ground floor, Bajanai Koil Street
Venkatesapuram Arakonam Vellore 631 002. . ..Petitioner

Vs

THE DEPUTY STATE TAX OFFICER -2 (FAC)
ARAKKONAM ASSESSMENT CIRCLE
COMMERCIAL TAXES BUILDING
WARD B BLOCK 25 TS NO.22
GANDHI ROAD ARAKKONAM-631 000. ...Respondent

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 respondent issued in impugned order in GSTIN order passed by the respondent in GSTIN 33AAIFM9700B2ZN/ 2018-19 along with DRC- 07 vide reference number ZD3305241024205 dated 15.05.2024 and quash the same.

For Petitioner : Mr.J.Sunil Kumar

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.J.Sunil Kumar learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (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 along with DRC- 07 dated 15.05.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent issued a show cause notice; that though the petitioner filed detailed reply/objections, the same was filed with a delay, and further, the petitioner also failed to appear during the personal hearing, as the petitioner's wife fallen sick at that point of time, however, the respondent, without affording an opportunity of hearing to the petitioner proceeded to confirm the proposals contained in the show cause notice and passed the impugned order.

3.1 Therefore, the learned counsel would submit that the impugned order is an ex parte order and suffers from violation of principles of natural justice, as, the petitioner has not been heard. However, it is stated that the petitioner is also ready and willing to deposit 25% 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 Government Advocate (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. In the case on hand, it is seen that the petitioner, on receipt of a show cause notice issued by the respondent filed reply/objections to the show cause notice issued by the respondent, however, with a delay, and Further, the petitioner also not appeared during the personal hearing due to the reason that the petitioner's wife had fallen ill at that point of time. However, the respondent, could have afforded one more opportunity to the petitioner, in which case, the petitioner would have perhaps, convinced the respondent as regards the impugned demand, inasmuch, granting opportunity to the assessee should not be an empty formality. However, the respondent failed to do so. Thus, it is clear that the impugned order passed by the respondent 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 25% of the disputed tax, to which, the learned Government Advocate (T) is also agreable, this Court is inclined to pass /issue the following orders/directions:-

i) The impugned order passed by the respondent dated 15.05.2024 is set aside.

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

iii) The petitioner is granted liberty to deposit 25% 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 is closed.

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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