IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 7721 of 2025
and
W.M.P.Nos.8672, 8674 & 8675 of 2025

Viswanetra Agencies Pvt. Ltd.,
rep. by its Director, Shri.Venkateswara Rao Koka. ...Petitioner

Vs.

The Assistant Commissioner
Arumbakkam, Central II
Chennai Central,
No.F-50, 2nd Floor,
First Avenue, Anna Nagar,
Chennai – 600 102. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records from the file of the respondent and to quash the impugned order in Ref.No.ZD330424112196S passed under Section 73 of the TNGST Act, 2017 for FY 2018-19 dated 15.04.2024 and consequently, to direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For Petitioner : M/S.Vandana Vyas
For Respondent : Mr.C.Harsha
Special Government Pleader (T)

Order

Heard M/S.Vandana Vyas learned counsel appearing for the petitioner and Mr.C.Harsha, learned Special 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 15.04.2024 and consequently, to direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

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", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the 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. Further, it is stated that in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, 45% of the disputed tax has already been recovered from the petitioner, hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that 45% of the disputed tax has already been recovered from the petitioner's account, subject to the verification of the said statement, 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, considering the fact that in pursuance of the impugned order, 45% of the disputed tax has already been recovered from the petitioner, this Court is inclined to pass the following orders/directions:-

i) The impugned order passed by the respondent dated 15.04.2024 is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

iv) 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.

v) So far as the bank attachment order is concerned, the respondent is directed to pass appropriate orders towards de-freezure of the petitioner's bank account and permit the petitioner to operate the bank account and also the Fixed Deposits.

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

10.03.2025

sd

Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner
Arumbakkam, Central II
Chennai Central,
No.F-50, 2nd Floor,
First Avenue, Anna Nagar,

Chennai – 600 102.

Krishnan Ramasamy,J.,

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