IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.7858 of 2025
and W.M.P.Nos.8840, 8841 & 8842 of 2025

Viswanetra Agencies Private Limited,
Rep. by its Director,
Shri. Venkateswara Rao Koka,
2nd Floor, 2A/5, Railway Colony,
1st Street, Aminjikarai,
Chennai – 600 029. .. Petitioner

Vs.

Commercial Tax Officer,
Arumbakkam, Central-II,
Chennai Central,
Tamil Nadu. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, to call for the records on the file of the respondent and quash the impugned order in Reference No:ZD330824244030V dated 27.08.2024 passed under Section 73 of the TNGST Act, 2017 for the FY 2019-2020 as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For Petitioner : Mr.Vandana Vyas

For Respondent : Mr.C.Harsha Raj
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the file of the respondent and quash the impugned order in Reference No:ZD330824244030V dated 27.08.2024 passed under Section 73 of the TNGST Act, 2017 for the FY 2019-2020 as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Tax), 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, the petitioner have not received the physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 02.12.2022 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 27.08.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the respondent had already recover a sum of Rs.16,00,000/- from the petitioner out of the total disputed tax demand of Rs.43,00,000/- in respect of the impugned assessment period 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.The learned Special Government Pleader appearing for the respondent would submit that the substantial amount of Rs.16,00,000/- has been recovered from the petitioner out of the total disputed tax demand in respect of the impugned assessment period.

6.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent 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 is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. It appears that a reminder was also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminder and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices and the reminder on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

8.Thus, in such circumstances, 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.

9.For the reasons stated above, this Court is inclined to set aside the impugned order dated 27.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(ii) 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the receipt of a copy of this order.

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

11.03.2025

rst
Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

Commercial Tax Officer,
Arumbakkam, Central-II,
Chennai Central,
Tamil Nadu.

KRISHNAN RAMASAMY, J.

rst

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