IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8319 of 2025
and
W.M.P.Nos.9325 and 9326 of 2025

Mrs.Sharmila ...Petitioner

Vs.

Deputy Commercial Tax Officer
Amaindakarai Central II
No.F-50, 2nd Floor, 1st Avenue
Anna Nagar East, Chennai-600102. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in Order in Reference No.ZD330424223911Q passed by the Respondent under Section 73 of the TNGST Act, 2017 for the period FY 2018-2019 dated 27.04.2024 and quash the same 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.Logesh G
for Mr.Sivaraman R

For Respondent : Mr.T.N.C.Kaushik (Taxes)
Additional Government Pleader

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ORDER

The challenge in this writ petition is to the order dated 27.04.2024 passed by the Respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader(Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that respondent issued show cause notice dated 07.11.2023, followed by two reminder notices dated 10.01.2024 and 12.04.2024 to the Petitioner and the same was uploaded in the "Additional Notices and Orders" column in the GST portal. Therefore, the petitioner was unaware of the same and hence failed to file its

reply. Under such circumstances, the respondent passed the impugned order dated 27.04.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019. The Petitioner came to know of the same belatedly.

5. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. On the other hand, the learned Additional Government Pleader (Taxes) would submit that though the show cause notice along with reminder notices were issued to the Petitioner, the petitioner failed to submit their reply and therefore impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to

them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST Portal, the petitioner was unaware of the same and hence could not file its reply. Therefore, impugned order came to be passed. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) 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.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2025

Index : yes/no
Neutral Citation : yes/no
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To

Deputy Commercial Tax Officer
Amaindakarai Central II
No.F-50, 2nd Floor, 1st Avenue

Anna Nagar East, Chennai-600102.

Krishnan Ramasamy,J.,

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W.P.No.8319 of 2025

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