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.8301 of 2025
and
W.M.P.Nos.9306 and 9307 of 2025

Tvl.Vaigai Construction,
Rep. by its Managing Partner, Kannan KK
49, 2nd Street, Anna Nagar Sivananda Colony,
Coimbatore-641012. ...Petitioner

Vs.

The State Tax Officer,
Gandhipuram Circle,
Coimbatore-18. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari to call for the Respondent's Order dated 22.08.2024 with GSTIN:33AAGFV7016D1ZG/2019-20 and to quash the same.

For Petitioner : Mr.Adithya Reddy

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

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ORDER

The challenge in this writ petition is to the order dated 22.08.2024 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 23.05.2024 to the Petitioner, for which the petitioner submitted a reply on 24.06.2024, seeking one month time for personal hearing. Further, he would submit that since the petitioner's

daughter was unwell at that point of time coupled with the fact that the petitioner's concerned representative was unavailable, the petitioner could not file its reply. Under such circumstances, the respondent passed the impugned order dated 22.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-20.

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 followed by reminders and personal hearing notice 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 petitioner's daughter was unwell and the petitioner's representative was not available at the relevant point of time, the petitioner could not either file its reply to the show cause notice or attend personal hearing. Under these circumstances, the 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 22.08.2024 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

Krishnan Ramasamy,J.,

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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

The State Tax Officer,
Gandhipuram Circle,
Coimbatore-18.

W.P.No.8301 of 2025