IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8342 of 2025
& W.M.P.Nos.9354 & 9355 of 2025

Tvl.Sabeena Traders,
Rep by its Proprietor Abdul Jabbar,
No.27/32A, South Koovam River Road Side,
Pudupet, Chennai 600 002

... Petitioner

Vs.

1.The State Tax Officer,
Chintadripet Assessment Circle

2.The Assistant Commissioner,
Chintadripet Assessment Circle

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of 1st respondent's order dated 26.04.2024 in GSTIN 33ADCPA0868P2ZI/ 2018-19 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Ms.P.Selvi,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 26.04.2024 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this case, the notice in DRC-01 was issued by the respondent on 04.01.2024, for which a reply was filed by the petitioner on 01.02.2024. Subsequently, the personal hearing opportunity was provided and thereafter, the impugned order dated 26.04.2024 came to be passed by the respondent.

3. Further, he would submit that the only grievance of the petitioner is that they were unable to file their profit and loss account along with the reply, due to which, the impugned order came to be

passed against them. Hence, he would requests this Court to set aside the impugned order and grant an opportunity to file their profit and loss account before the respondent.

4. In reply, the learned Government Advocate for the respondent would submit that in the present case, a detailed reply was filed by the petitioner and the same was duly considered by the respondent. Thereafter, when an opportunity of personal hearing was provided to the petitioner, they had failed to appear before the respondent. Under these circumstances, the impugned order came to be passed by the respondent.

5. Further, she would contend that the petitioner is supposed to have filed their profit and loss account along with their reply dated 01.02.2024. However, they had failed to do so. On the other hand, if the opportunity of personal hearing was availed by the petitioner, the respondent would have asked for the profit and loss account and also sufficient time would have been provided to them for production of all the relevant documents. However, due to the non-appearance of

petitioner, the respondents were not in a position to get any clarification with regard to the documents. Hence, she requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In this case, the show cause notice was issued by the respondent on 04.01.2024, for which, a reply was filed by the petitioner on 01.02.2024. Thereafter, a reminder notice for personal hearing was also issued by the respondent. However, the petitioner had failed to appear before the respondent on the said date of personal hearing, due to which, the respondent was not in a position to ask for profit and loss account from the petitioner. Under these circumstances, the impugned order came to be passed by the respondent.

8. The main grievance of the petitioner is that the impugned order was passed against the petitioner only due to the non-filing of profit and loss account. According to the petitioner, no opportunity was provided to them for filing their profit and loss account and now, they request an opportunity to file the said document before the respondent.

9. However, this Court is of the view that it is the bound duty of the petitioner to file all the supporting documents along with their reply. A mere statement, without any documentary evidence, cannot be accepted to decide the issue. In this case, the petitioner had neither filed the supporting document, viz., profit and loss account, along with the reply nor appeared for personal hearing before the respondent. Hence, it is clear that though the respondent had provided sufficient opportunities, due to the inaction on the part of the petitioner, they had given up their rights for personal hearing.

10. In this case, the impugned assessment order was passed as early as on 26.04.2024. Even though the reply was filed, the supporting documents were not filed by the petitioner and hence, it is clear that the petitioner had voluntarily invited the impugned assessment order dated 26.04.2024. After the period of 10 months, now they had approached this Court by way of the present petition challenging the said impugned order.

11. In view of the above, it is clear that the petitioner had voluntarily gave up the opportunity of personal hearing before the Assessing Officer. Thereafter, the petitioner had failed to file their appeal against the assessment order within time. Hence, it is clear that due to their own omission, they had lost the opportunity of filing an appeal, against the said assessment order, before the concerned Appellate Authority. When such being the case, this Court is not inclined to interfere with the impugned assessment order passed by the respondent. Therefore, this writ petition is liable to be dismissed.

12. In the result, this writ petition is dismissed. No cost. Consequently, the connected miscellaneous petitions are also closed.

19.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.The State Tax Officer,
Chintadripet Assessment Circle

2.The Assistant Commissioner,
Chintadripet Assessment Circle

KRISHNAN RAMASAMY.J.,

nsa

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