IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8708 of 2025
& W.M.P.Nos.9755 & 9758 of 2025

M/s.TMG Packagings,
Rep by its Partner, M.Sakthivel,
No.99/2, R.S.Road, Perundurai,
Erode 638 052

... Petitioner

Vs.

1.Deputy Commissioner (ST),
No.161, Commercial Tax Office Building,
Brough Road, Erode 638 001

2.The Assistant Commissioner (ST),
Perundurai Assessment Circle,
Integrated Commercial Tax Building,
Erode 638 002

3.The Deputy State Tax Officer 2,
Perundurai Assessment Circle,
3rd Floor, Integrated Commercial Tax Building,
Erode 638 002

... 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 relating to the impugned order of assessment bearing Ref.No.33AAGFT3028D1ZM/ 2019-20 dated 24.08.2024 passed by the 3rd respondent under the provisions of Section 73 of the Act in GST DRC-07 for the Financial Year 2019-20 and quash the same as illegal.

For Petitioner	:	Mr.K.Chozhan
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 24.08.2024 passed by the 3rd respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent in the GST common portal. Due to the technical glitches, the reply filed by the petitioner's consultant was not uploaded in the portal within the prescribed time limit. Under these circumstances, the impugned order came to be passed by the 3rd respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondents. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that the respondent had uploaded the notices in the GST Online Portal. However, the petitioner

failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and also perused the materials available on record.

7. In the case on hand, it is clear 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 since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the

petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 24.08.2024 passed by the 3rd respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 24.08.2024 is set aside and the matter is remanded to the 3rd respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the 3rd respondent within a period of four weeks from today (13.03.2025) 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 reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 3rd 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.

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

13.03.2025

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

To

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KRISHNAN RAMASAMY.J.,

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