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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9128 of 2025
AND
WMP NO. 10240 OF 2025

Alagappan Prop Sri Venkateswara
Medicals
No.1/159 kavari street Pudupakkam,
Chengalpattu District 603103

Petitioner

Vs

The Deputy State Tax Officer
Chengalpattu Assessment Circle
No.16A I floor 1st main road Anna
Nagar Chengalpattu 603001

Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records to call for the records of the respondent in impugned order with Ref No.ZD331223270226R dated 30.12.2023 for the assessment year 2017-2018 to quash the same and direct the respondent to adjudicate the assessment on the basis of the reply filed in ARN No.ZD331024049690P dated 08.10.2024

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For Petitioner(s): Mr.Ramasamy Swarnavel

For Respondent(s): Mr. C. Harsha Raj
Special Government Pleader
(Taxes)

ORDER

The challenge in this writ petition is to the order dated 30.12.2023 passed by the respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special 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 GST registration of the petitioner was cancelled on 31.08.2018. Thereafter, a show cause notice was issued to the petitioner on 07.10.2023. Since the GST registration itself was cancelled, the petitioner was aware of the show cause notice and hence failed to submit its reply. Subsequently, the respondent passed an assessment order dated

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30.12.2023, demanding tax along with interest and penalty for the assessment year 2017-2018, which is impugned in this writ petition. Thereafter, the issued another show cause notice dated 03.08.2024 was issued after coming to know of the same through the bank, the petitioner filed detailed reply on 21.08.2024 and subsequently paid a sum of Rs.35,996.10/- on 08.10.2024. In addition, the petitioner also filed a reply on 08.10.2024. He further submitted that though the respondent dropped the proceedings initiated u/s.74, they hold the impugned order.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. That apart, entire tax amount has been remitted by the petitioner. Hence he prays to set aside the impugned order.

6. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the personal hearing notices were issued to the Petitioner, by uploading the same in

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the GST portal, the petitioner neither submitted its reply nor appeared for personal hearing and hence impugned assessment order came to be passed. However, he fairly submitted that entire tax amount has been remitted by the petitioner.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, since the petitioner's GST registration was cancelled, the petitioner was unaware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

9. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the

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petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

10. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is 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 assessment order dated 30.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 30.12.2023 is set aside and the matter is remanded to the Respondent for fresh consideration.

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

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(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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any 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 production of proof with regard to the payment of 25% as stated above.

27-03-2025

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

1.The Deputy State Tax Officer
Chengalpattu Assessment Circle
No.16A I floor 1st main road Anna
Nagar Chengalpattu 603001

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KRISHNAN RAMASAMY J.

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