IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 8992 of 2025
and
WMP No. 10101 of 2025

Indian Railway Finance Corporation
Limited,
Represented by its Authorised
Signatory, Mr.N.H.Kannan,
NGO Building, Mint Street, Park Town,
Chennai 600 003.

Petitioner(s)

Vs

Assistant Commissioner (ST),
Park Town Assessment Circle,
No.32, Integrated Commercial Taxes
Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

Respondent(s)

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the Impugned Assessment Order in GSTN:33AAACI0681C1Z6/2020-21 dated 04.12.2024 passed by the Respondent and to quash the same.

For Petitioner(s): Mr.Raghav Rajeev

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

ORDER

The present Writ Petition is filed challenging the impugned assessment order dated 04.12.2024 passed by the respondent relating to the assessment year 2020-21, on the ground of violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of financial leasing services under the CGST Act. It is stated that for the impugned period, the petitioner's principal business was to borrow funds from the financial markets to finance acquisition/creation of assets which are then leased out to the Indian Railways. The petitioner is also engaged in providing financial leasing of rolling stock assets, leasing of railway infrastructure assets and national railway projects of the Government of India. During the relevant period viz., 2020-21, the

petitioner had filed its return and paid appropriate taxes.

2.1. He would submit that, initially a show cause notice in Form DRC-01 was issued to the petitioner on 26.10.2023, covering only one issue, for which, the petitioner had submitted its reply on 24.11.2023. However, while passing the impugned order dated 04.12.2024, the respondent covered two issues, and the second issue is pertaining to the reversal of Input Tax Credit (ITC), which was not put on notice to the petitioner in the show cause notice dated 26.10.2023. Hence, the learned counsel submitted that the impugned order travelled beyond the proposals raised in the show cause notice dated 26.10.2023 and has confirmed the demand of tax to the tune of Rs.1,56,53,60,166/- on an entirely new ground which was never raised in the show cause notice and it is a clear violation of principles of natural justice. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

3. Mr.C.Harsha Raj, learned Special Government Pleader appearing for the respondent, on instructions from the respondent Department, fairly submitted that the show cause notice dated 26.10.2023 was issued to the petitioner covering one issue. However, the impugned order was passed stating that the determination of RCM liability not disclosed during the financial year 2020-21, which does not cover in the show cause notice dated 26.10.2023. Hence, he submitted that the order impugned herein may be treated as show cause notice and the petitioner may submit their objections along with the relevant documentary evidence and after considering the same, the respondent authority will pass orders in accordance with law.

4. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader (Taxes) for the respondents and perused the materials available on record.

5. It appears that the show cause notice dated 26.10.2023 was issued covering one issue, for which, the petitioner had submitted its reply on

24.11.2023 and the respondent also afforded an opportunity of personal hearing to the petitioner, however, while passing the impugned order, the respondent covered two issues and in respect of second issue, no opportunity of personal hearing was afforded to the petitioner. As rightly pointed out by the learned counsel for the petitioner that the show cause notice was issued covering one issue and the impugned order dated 04.12.2024, which covered two issues, inasmuch as it is beyond the scope of the demand proposed in the show cause notice issued to the petitioner.

6. Taking into consideriation the facts and circumstances of the case and considering the submissions made by the learned counsel on either side as well as the instructions from the respondent Department, this Court is of the view that the impugned order was passed without application of mind and in violation of principles of natural justice and therefore the impugned order dated 04.12.2024 be treated as show cause notice and the petitioner shall submit their reply.

7. For the reasons stated above, this Court is inclined to set aside the impugned order dated 04.12.2024 passed by the respondent with the following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The impugned assessment order dated 04.12.2024 shall be treated as show cause notice and the petitioner shall submit its reply/objection within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material.

(iii) On filing of such reply/objection by the petitioner within the stipulated period, the respondent shall consider the same and issue a 14 days clear notice by fixing the date for 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.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

07-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To
Assistant Commissioner (ST),
Park Town Assessment Circle,
No.32, Integrated Commercial
Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY J.

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