IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9260 of 2025
and
W.M.P.Nos.10380, 10382 and 10385 of 2025

M/s.Regma Ceramics Limited,
Rep. by its Director Mr.Ramanuja Reddiar Kumar,
1-1/1, Agalangannu Road, Sellur Village,
Karikal, Puducherry-609607. ... Petitioner

..Vs..

1. Superintendent of GST and Central Excise,
   Range-II, Karaikal Division,
   Central Revenue Building, Beach Road,
   Karaikal-609 602.

2. Superintendent of GST and Central Excise,
   Circle VI, Group I,
   Office of Commissioner of Central Tax & Central Excise,
   Audit-I, Commissionerate,
   Anna Nagar, Chennai-600101.

3. Assistant Commissioner of GST and Central Excise,
   Karaikal Division,
   Central Revenue Building, Beach Road,
   Karaikal. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st Respondent vide the Impugned Order in Original No.04/2024 (GST) dated 30.07.2024 and Rectification Order No.1/2024 (GST) dated 31.07.2024 and quash the same as it is violative of principles of natural justice.

For Petitioner : Mr.M.Karthikeyan

For Respondent : Mr.B.Ramanakumar
Senior Standing Counsel (Taxes)

ORDER

The challenge in this writ petition is to the order dated 30.07.2024 passed by the respondent and to quash the same.

2. Mr.V.Prashanth Kiran, learned Government Advocate (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 the show cause notice dated 29.12.2023 was issued to the petitioner. Subsequently, a Corrigendum dated 16.01.2024 was issued making the Show Cause Notice

answerable to the 1st respondent. Thereafter, the petitioner submitted its reply on 01.07.2024 and appeared for personal hearing before the 1st respondent on 03.07.2024 . However, another corrigendum was issued by the 2nd respondent on 23.07.2024, enhancing the ITC excess claim from Rs.59,784/- to Rs.3,02,334. Subsequently, impugned order was passed by the 1st respondent on 30.07.2024, confirming liability of Rs.5,89,369/- under Section 74 of the Act, along with interest and penalty for the Assessment Year 2017-2018 to 2021-22 and a subsequent Rectification Order No.1/2024 (GST) was issued on 31.07.2024. Thereafter, the 3rd respondent proceeded to issue a notice under Section 79 (1)(c) to one of the petitioner's dealer, directing the dealer to withhold Rs.18,24,001/- and remit it directly to the 3rd respondent. The action of the 3rd respondent has stalled the business operations of the Petitioner thereby violating the rights of the petitioner to carry on trade unhindered.

5. Further, he would submit that impugned orders, confirming the demand as per the 2nd corrigendum dated 23.07.2024 came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same are passed in violation of principles of natural justice. Hence he prays to set aside the impugned orders.

6. The learned Senior Standing Counsel appearing for the Respondents submitted that the orders impugned herein came to be passed only after considering the reply filed by the petitioner and also after affording an opportunity of hearing to the petitioner and therefore the principles of natural justice has been duly complied with.

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 respondents 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 Senior Standing Counsel appearing for the Respondents has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel (Taxes) for the Respondents and also perused the materials available on record.

9. In the present case, though the petitioner filed the reply and appeared for personal hearing, after the issuance of the 2nd corrigendum, no opportunity

of personal hearing was granted to the petitioner, prior to passing of impugned orders.

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

11. 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 orders 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 order in original dated 30.07.2024 as well as rectification order dated 31.07.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the Respondents for fresh consideration on condition that as volunteered by the Petitioner, they 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 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 hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19.03.2025

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

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Krishnan Ramasamy,J.,
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