IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9329 of 2025
and
W.M.P.Nos.10483 and 10486 of 2025

VSI SAND
Rep. by its Partner
J.Kamaraj
193/1, Sai Nagar Cross Road-1,
LIC Colony, Kuruchi,
Coimbatore-641024. ... Petitioner

..Vs..

State Tax Officer,
Podanur Circle,
Dr.Balasundaram Road,
Coimbatore. ... Respondent

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 respondent order dated 01.08.2024 passed in GSTIN:33AAPFV9059B1ZW/2019-20 and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 01.08.2024 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 16.05.2024 was issued to the petitioner by uploading the same in the GST portal, without serving it through physical mode. Since the petitioner's GST registration was cancelled as early as on 08.06.2022, the petitioner has not viewed the GST portal and was not aware of the show cause notice and hence could not file its reply. Subsequently, the respondent passed the impugned assessment order dated 01.08.2024, demanding tax along with interest and

penalty for the Assessment Year 2019-2020 and the same was also uploaded in the GST Portal. The petitioner came to know of the impugned assessment order only after the initiation of recovery proceedings by the respondent.

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. Hence she prays to set aside the impugned order.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the personal hearing notice were issued to the Petitioner, by uploading the same in the GST portal, the petitioner neither failed to submit its reply nor appeared for personal hearing and hence impugned assessment order came to be passed.

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 respondent 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 Government Advocate (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since all the notices were uploaded in the GST portal and as 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.

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 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 01.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 01.08.2024 is set aside and the matter is remanded to the Respondent 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.

(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.

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
(2/4)

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

The State Tax Officer,
Podanur Circle,
Dr.Balasundaram Road,
Coimbatore.

<u>Krishnan Ramasamy,J.,</u>

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<u>W.P.No.9329 of 2025</u>

19.03.2025