IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.10262 and 10268 of 2025
and
W.M.P.Nos.11554, 11556, 11568 and 11570 of 2025

Tvl.Metal Smith India Private Limited,
Rep. by its Authorized Signatory Mr.Raju. S,
No.209 A, 9th Street, Gandhipuram,
Coimbatore, Tamil Nadu- 641 012. ... Petitioner in both W.P.'s

..Vs..

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Gandhipuram Assessment Circle,
Coimbatore, Tamil Nadu-641 018. ... Respondent in both W.P.'s

Prayer in W.P.No.10262 of 2025: 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 Impugned Order in GSTIN 33AAFCM0295H1ZL/2018-19 dated 15.02.2025 for the Financial Year 2018-19 issued by the respondent herein from the files of the respondent herein, QUASH the same.

Prayer in W.P.No.10268 of 2025: 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 Impugned Assessment Order in Ref.No.ZD330424214776F dated 26.04.2024 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with summary of order in DRC07 for the Financial Year 2018-19 issued by the respondent herein read with the Impugned Assessment Order in GSTIN 33AAFCM0295H1ZL/2018-19 dated 15.02.2025 for the Financial Year 2018-19 issued by the respondent herein rejecting the application for rectification under Section 161 of the CGST/TNGST Act, 2017 is violative of the principles of natural justice, erroneous on points of law and facts, arbitrary, illegal and hence liable to be quashed.

For Petitioner (in both W.P.'s)	:	Ms.Aparna Nandakumar
For Respondent (in both W.P.'s)	:	Mr.T.N.C.Kaushik Additional Government Pleader (Taxes)

COMMON ORDER

Since the issue involved in both these writ petitions are one and the same, they are taken up together and disposed by a common order.

2. These Writ Petitions have been filed challenging the impugned assessment order dated 26.04.2024 and the consequent rectification order passed by the respondent on 15.02.2025.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondent.

4. By consent of the parties, the main Writ Petitions are taken up for disposal at the time of admission stage itself.

5. The learned counsel for the petitioner would submit that the initially ASMT 10 notice dated 04.01.2022 was issued to the petitioner for which the petitioner submitted its reply on 07.04.2022. Thereafter, for the very same issue and assessment year another ASMT 10 notice was issued on 09.10.2023. Thereafter, pre show cause notice dated 11.12.2023 followed by show cause notice dated 16.12.2023 was issued to the petitioner, for which the petitioner filed its reply on 16.01.2024 and 28.02.2024 seeking adjournment for filing detailed reply along with supporting documents and also personal hearing. But, the respondent herein without considering the same has passed the impugned assessment order dated 26.04.2024 demanding tax along with interest and penalty for the assessment year 2018-19. Immediately, the petitioner filed a rectification petition and the same was rejected on 15.02.2025, stating that the petitioner should have filed an appeal challenging the assessment order.

6. Further, she would submit that the petitioner's consultant failed to file an appeal, within the limitation period and therefore left with no other alternative the petitioner has filed these writ petitions seeking to set aside the impugned assessment order and the rectification order passed by the respondent.

7. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that totally two issues were raised in the show cause notice and one issue was dropped based on the reply filed by the petitioner in ASMT 10/DRC1A notice and the 2nd issue was confirmed vide impugned order. He further submitted that the matter may be remanded back to the assessing authority on payment of 25% of the disputed tax liability.

8. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay a sum of Rs.5,00,000/- to 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 Additional Government Pleader (Taxes) appearing for the Respondent has no serious objection.

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

10. In the present case, initially ASMT 10 notice dated 04.01.2022 was issued to the petitioner for which the petitioner submitted its reply on 07.04.2022. Thereafter, for the very same issue and assessment year another ASMT 10 notice was issued on 09.10.2023. Thereafter pre show cause notice dated 11.12.2023 followed by show cause notice dated 16.12.2023 was issued to the petitioner,for which the petitioner vide reply dated 16.01.2024 and 28.02.2024 sought for adjournment for filing detailed reply along with supporting documents and also personal hearing. But, the respondent herein without considering the same has passed the impugned assessment order. As rightly contended by the learned counsel for the petitioner when the respondent intend to drop the proceedings, based on the reply filed by the petitioner to the show cause notice, they can very well do so. But, when they intend to pass orders confirming the demand for the other issue, they ought to have provided an opportunity of hearing to the petitioner.

11. 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.

12. In the case on hand, the impugned order came to be passed without sufficient opportunities to 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 as well as the rectification order passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remitted back to the assessing authority for fresh consideration on condition that as volunteered by the Petitioner, they shall pay a sum of Rs.5,00,000/- 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 from the date of receipt of a copy of this order.

(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 assessment 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 Rs.5,00,000/- as stated above.

Krishnan Ramasamy,J.,

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

24.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Note: Issue order copy on 26.03.2025

To

The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Gandhipuram Assessment Circle,
Coimbatore, Tamil Nadu-641 018

W.P.Nos.10262 and 10268 of 2025