IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10128 of 2025
and
W.M.P.Nos.11373 and 11374 of 2025

Sri Yogalakshmi Agencies &
Sri Niranjani Construction,
Represented by its Proprietrix,
Mani Urmila,
No.1, Chennai Bangalore Highway NH 26,
Sengalikuppam Village,
Vaniyambadi, Vellore-635 753. ... Petitioner

..Vs..

State Tax Officer (Intelligence),
Inspection-IV, Vellore
Office of the Joint Commissioner (ST)(Intelligence),
No.4, Barathiyar Salai, Fort Round Road,
Vellore 632 001. ... 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 impugned order of the respondent passed in GSTIN/33AAXPU3788Q1Z9/2019-20 dated 01.02.2024 and quash the same.

For Petitioner : Ms.Divya A

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

ORDER

The challenge in this writ petition is to the order dated 01.02.2024 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 the show cause notice dated 04.08.2023 was issued to the petitioner alleging certain defects. Since, during the 1st round of litigation, the petitioner has admitted the defects for the proposed demand, the petitioner had paid the demand on 06.01.2023 and 27.07.2023, the petitioner had not filed its reply. Subsequently, the respondent passed the impugned assessment order dated 01.02.2024, demanding tax along

with interest and penalty for the Assessment Year 2019-2020. As the petitioner's consultant failed to inform about the impugned order to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the impugned assessment order only after getting a call from the respondent office during the 2nd week of February 2025. When the petitioner took steps for filing the appeal, the time for filing the appeal got expired. Hence, left with no other alternative the petitioner is before this Court by way of this writ petition.

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 same.

6. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices were issued to the Petitioner, the petitioner failed to submit its reply and hence impugned assessment order came to be passed. However, he fairly submitted that the entire disputed tax amount has been paid by the petitioner.

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

8. In the present case, since the petitioner has already paid the demand in the 1st round of litigation, the petitioner has not filed 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 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 01.02.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 01.02.2024 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.

(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.

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

27.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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<u>Krishnan Ramasamy,J.,</u>

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To

State Tax Officer (Intelligence),
Inspection-IV, Vellore
Office of the Joint Commissioner (ST)(Intelligence),
No.4, Barathiyar Salai, Fort Round Road,
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