IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.9610 of 2025
and W.M.P.Nos.10763 & 10765 of 2025

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

Vs.

The 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: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN/33AAXPU3788Q1Z9/2018-19 dated 01.02.2024 and quash the same.

For Petitioner : Ms.Divya.A

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the impugned order of the respondent passed in GSTIN/33AAXPU3788Q1Z9/2018-19 dated 01.02.2024 and 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 admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner has remitted the entire tax liability for the Assessment Year 2018-2019. The order impugned herein has been passed demanding interest and penalty alone. Since there was some discrepancies, the respondent has issued show cause notice on 04.08.2023 under section 74 of the Central Goods and Service Tax Act, 2017, and consequential impugned order dated 01.02.2024 came to be passed since the petitioner did not file their reply. He would further submit that the petitioner has not received any physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 04.08.2023 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 01.02.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. Hence, she prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Special Government Pleader appearing for the respondent would submit that the respondent has recovered the entire tax liability in respect of the Assessment Year 2018-2019 and if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. It appears that three reminders were also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminders and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices and the reminders on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned order dated 01.02.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i)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.

(ii) 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.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20.03.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

The State Tax Officer (Intelligence),
Inspection-IV, Vellore,
Office of the Joint Commissioner (ST) (Intelligence),
No.4, Barathiyar Salai, Fort Round Road,
Vellore – 632 001.

KRISHNAN RAMASAMY, J.

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