IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9813 of 2025
and
W.M.P.Nos.11010 and 11014 of 2025

Tvl.Samuel Constructions,
Rep. by its Proprietor Mrs.Abraham Sumathy,
No.5-1, W Block, 7th Street, Anna Nagar East,
Chennai, Tamilnadu-600040. ...Petitioner

..Vs..

Deputy State Tax Officer-1,
Amaindakarai Assessment Circle,
No.1, PAPJM Annexure Building, 3rd Floor,
Greams Road, Chennai-600 006. ... 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 of the Respondent herein in impugned order in GSTIN:33ANSPS3518C1ZY/2019-20 dated 24.08.2024 and the consequential DRC 07 passed in Ref.No.ZD330824225410S dated 24.08.2024 for the F.Y.2019-20 and quash the same.

For Petitioner : Mr.Sakthivel B

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

ORDER

The challenge in this writ petition is to the orders dated 24.08.2024 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 show cause notice dated 23.05.2024 was issued to the petitioner. Since the petitioner's consultant to whom the petitioner has entrusted the work relating to GST, failed to file the reply, the respondent passed the impugned order along with summary order dated 24.08.2024, 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 order belatedly.

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. He further submitted that 50% of the disputed tax liability has already been paid by the petitioner. Hence he prays to set aside the impugned orders.

6. The Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as reminder notice were issued to the Petitioner, the petitioner failed to submit its reply and hence assessment order came to be passed. As far as the contention of the petitioner with regard to the payment of 50% tax liability is concerned, the learned Special Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.

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

8. In the present case, since the petitioner's consultant to whom the petitioner has entrusted the work relating to GST has failed to file the reply to

the show cause notice issued to the petitioner, impugned orders 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 orders 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 along with summary order dated 24.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside.

(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) The Respondent is at liberty to recover 25% of disputed tax liability in case, if no amount has been paid by the petitioner as stated by the learned counsel for the petitioner.

11. Accordingly, the writ petition is 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
arr
Note: Issue order copy on 25.03.2025

To

Deputy State Tax Officer-1,
Amaindakarai Assessment Circle,
No.1, PAPJM Annexure Building, 3rd Floor,
Greams Road, Chennai-600 006.

Krishnan Ramasamy,J.,

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24.03.2025