IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9676 of 2025
AND
WMP NO. 10859 OF 2025,WMP NO. 10857 OF 2025

M/S KNP Trader
Rep by its proprietor
Mr. Nataraj Satyavani 8/72, Andikadu,
Maranampalayam, Kangayam
Now residing at 18/158, Ellakadu
Kalam, Chennimalaipalayam,
Paranjervali (PO) Kangayam,
Tirupur 638 701

Petitioner(s)

Vs

The Deputy State Tax Officer
Kangayam Assessment Circle, Tirupur

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of impugned assessment order in Ref. ZD330824235879U dated 27.08.2024 for the financial year 2019-20 under Section 73 of the CGST/TNGST Act, 2017 and uploaded along with summary of order in DRC-07 from the files of the respondent herein, quash the same.

For Petitioner(s): Ms.Aparna Nandakumar

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

ORDER

This writ petition has been filed challenging the impugned order dated 27.08.2024 passed by the respondent.

2.Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3.The learned counsel for the petitioner would submit that the show cause notice was issued by the respondent on 21.05.2024. However, due to Covid-19 pandemic, the petitioner suffered financial loss in business as his business activity came to a practical standstill during and in the aftermath of Covid lockdown, the petitioner filed application for cancellation of GST registration on 16.06.2022 and the same was allowed by the respondent vide order dated 17.06.2022, cancelling the petitioner's GST registration with effect from 01.04.2022. Under these circumstances, the respondent issued the show cause notice dated 21.05.2024 by uploading the same in the GST portal and thereafter, the impugned order dated 27.08.2024 came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4.Further, she would submit that one of the issues involved in the present writ petition is with regard to the claim made by the petitioners for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017. She would also submit that the said issue has been squarely covered by the common order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, etc, whereby, this Court had quashed the impugned order passed by the Department. Hence, he requests this Court to pass appropriate orders.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had duly issued the show cause notice to the petitioner. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to pass appropriate orders.

6.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and also perused the materials available on record.

7.In the case on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8.Further, it was submitted by the learned counsel for the petitioner that one of the issues involved in this petition is with regard to the claim made by the petitioners for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017. As submitted by the learned counsel for the petitioner, the said issue was already dealt with by this Court in W.P.Nos.25081 of 2023, etc, whereby, this Court, vide common order dated 17.10.2024, had quashed the impugned order passed by the Department. In such view of the matter, this Court is inclined to quash the impugned order only the aspect of aforesaid issue pertaining to Section 16(4) of GST Act. As far as other issues are concerned, this Court is inclined to set aside the impugned order dated 27.08.2024 passed by the respondent.

9. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.08.2024 is quashed only to the extent of issue relates to the claim made by the petitioner for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017

(ii) As far as other issues are concerned, the impugned order dated 27.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iv) 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, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

20-03-2025

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

The Deputy State Tax Officer
Kangayam Assessment Circle, Tirupur.

KRISHNAN RAMASAMY J.

rst

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