IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.8674of 2025
and
W.M.P.Nos.9706 and 9708 of 2025

Renuka Silks,
Represented by its Partner R.Kandasamy,
No.9, Bazzar Street,
Perambalur-621212. .... Petitioner

Vs

The State Tax Officer,
Perambalur Assessment Circle,
No.93F, Venkatchalapathy Nagar,
New Bus Stand Back Side,
Perambalur-621212. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records on the file of the Respondent in its Proceedings made in GSTIN: 33AARFR0018G1ZF/ 2019-20 dated 31.08.2024 and the connected order in Form GST DRC-07 bearing Ref. No. ZD330824311343Q dated 31.08.2024 and quash the same as illegal and arbitrary.

For Petitioner : Mr.J.Prasanna Kumar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the orders dated 31.08.2024 passed by the 1st Respondent and to quash the same.

2. Mrs.K.Vasanthamala, 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 the 2nd respondent issued show cause notice dated 29.05.2024 and the same was uploaded in the GST portal. Since the petitioner has no computer knowledge, they were unaware of the same and hence could not file the reply. Under such circumstances, the respondent passed the mpugned assessment order along with

summary order dated 31.08.2024 demanding tax along with interest and penalty for the Assessment Year 2019-20 and the same was also uploaded in the GST portal. The petitioner came to know of the impugned orders belatedly. Immediately after coming to know of the impugned order, the petitioner filed a rectification petition seeking to rectify the impugned order and the same was rejected. Hence, left with no other alternative the petitioner is before this Court by way of this writ petition.

5. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned orders and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that though the respondent issued show cause notice and reminder notices to the petitioner, the petitioner failed to submit its reply to substantiate its case and therefore impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability

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 Government Advocate (Taxes) appearing for the Respondents has no serious objection.

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

9. In the present case, since all the notices were uploaded in the GST portal, the petitioner failed to submit its reply. Under such circumstances, impugned orders came to be passed. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were passed 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 orders passed by the respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside. and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall shall pay ***25%*** *of disputed tax* to the Respondents concerned 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 thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondents concerned 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, connected miscellaneous petitions are closed.

14.03.2025

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

The State Tax Officer,
Perambalur Assessment Circle,
No.93F, Venkatchalapathy Nagar,
New Bus Stand Back Side,
Perambalur-621212

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