IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.8806 of 2025
and
WMP.Nos.9870, 9871 and 9873 of 2025

SK Sanitaz
III and IV, royal garden annex
Gopurasanallur,
Kattupakkam,
Chennai-600 056
Rep. by its Partner K.Senthil
Kumar ... Petitioner

..Vs..

1. Dy.Commissioner (ST)
Poonamallee Zone,
Chennai-600 123.

2. State Tax Officer
Poonamallee Assessment Circle
4/109, Third Floor, Bangalore-Chennai Highway
Varadarajapuram, Nazarathpet,
Chennai-600 123.

3. The Manager
City Union Bank Limited
Old No.776, New No.70,
Trunk Road, Poonamallee,
Chennai-600 056. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondents leading to issuance of Impugned Order dated 08.07.2024 vide GSTIN:33ADAFS6496F1ZX/2019-20 and quash the same and direct the Respondent to pass order after considering the reply to be filed by the petitioner.

For Petitioner : Mr.S.Sathiyanarayanan

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

ORDER

The challenge in this writ petition is to the order dated 08.07.2024 passed by the respondents 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 show cause notice dated 02.03.2024 was issued to the petitioner by uploading the same in the “Additional Notices and Orders” tab of the GST portal, without serving it

through physical mode. Therefore the petitioner was not aware of the show cause notice and hence could not file its reply. Subsequently, the respondent passed the impugned assessment order dated 08.07.2024, 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 assessment order only after he received an intimation of demand dated 31.12.2024 from the 1st respondent for recovery of dues relating to the impugned order.

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 impugned order.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the personal hearing notice were issued to the Petitioner, by uploading the same in the GST portal, the petitioner neither failed to submit its reply nor appeared for personal hearing and hence impugned assessment 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 made by the respondent 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 Respondent has no serious objection.

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

9. In the present case, since the show cause notice was uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

10. 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.

11. 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 08.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 08.07.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent 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 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.

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

20.03.2025

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

1. Deputy Commissioner (ST)
   Poonamallee Zone,
   Chennai-600 123.

2. State Tax Officer
   Poonamallee Assessment Circle

4/109, Third Floor, Bangalore-Chennai Highway
Varadarajapuram, Nazarathpet,
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Krishnan Ramasamy,J.,

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