IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9551 of 2025
and
W.M.P.Nos.10707 and 10709 of 2025

M/s.Shri Guru Ganesh Plywoods & Hardwares.,
Represented by its Proprietor,
Mr.Arihant Kumar (M/A 32 Yrs)
No.184, Kutchary Road,
Mylapore,
Chennai 600 004. ... Petitioner

..Vs..

The State Tax Officer (FAC),
Mandaveli Assessment Circle,
Integrated Commercial Tax and Registration Building,
Nandhanam,
Chennai 600 035. ... 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 on the file of the Respondent and to quash the impugned order dated 11.08.2024 bearing no.33AA1PA9003B1ZJ/2019-2020 passed by the Respondent as ordinary.

For Petitioner : Mr.J.Ashish

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 11.08.2024 passed by the respondent and to quash the same.

2. Ms.Amirtha Poonkodi Dinakaran, 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 29.05.2024 followed by reminder dated 06.07.2024 was issued to the petitioner through GST portal, for which the petitioner filed a representation dated 09.08.2024 stating that the petitioner will appear on 12.08.2024 before the respondent in person to substantiate its case and the said reply was uploaded in the GST portal. But, the respondent without considering the same has passed the impugned assessment order dated 11.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020. The petitioner came

to know of the impugned order after getting a call from the respondent informing him to pay the tax demand.

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, neither filed 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, the show cause notice was issued to the petitioner on 29.05.2024, pursuant to which the petitioner made a representation through GST portal stating that the petitioner will appear before the respondent in person on 12.08.2024. But, the respondent without taking note of the same has passed the impugned order.

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 11.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 11.08.2024 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.

Krishnan Ramasamy,J.,

arr

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
arr

To

The State Tax Officer (FAC),
Mandaveli Assessment Circle,
Integrated Commercial Tax and Registration Building,
Nandhanam,
Chennai 600 035.

W.P.No.9551 of 2025

20.03.2025