IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9604 of 2025
AND
WMP NO. 10758 OF 2025,WMP NO. 10757 OF 2025

M/s.S.M.Super Market,
Represented by its Partner, Mrs.
R.Ramadevi O.No.90, N.No.21, 3rd
Main Road, Pallava Garden, Zamin
Pallavaram, Chennai-600 117

Petitioner(s)

Vs

1.The State Tax Officer /
Commercial Tax Officer
Pallavaram Assessment Circle, Station
Integrated Registration Commercial
Taxes Building, III Floor Room
No.345, Nandanam Chennai-600 035.

2.The Deputy Commissioner (CT),
GST Appeal Chennai -II, CT Annexe
Building, No.1 Greams Road, Chennai-
600 006

Respondent(s)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari,call for records of the impugned order passed in GSTIN/ 33ACMFS6350H1ZY/2017-18 dated 19.12.2023 on the file of the First Respondent herein along with the consequential DRC-07 Order under Section 73, Ref No. ZD3312231410360 dated 19.12.2023 on the file of the First Respondent herein and the quash the same as illegal, arbitrary against the principle of natural justice and against the law.

For Petitioner(s): Mr.J.Poojesh
For Mr.M Sunil Kumar

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

ORDER

This Writ Petition has been filed by the petitioner seeking to call for records of the impugned order passed in GSTIN/ 33ACMFS6350H1ZY/2017-18 dated 19.12.2023 on the file of the First Respondent herein along with the consequential DRC-07 Order under Section 73, Ref No. ZD3312231410360 dated 19.12.2023 on the file of the First Respondent herein and the quash the same as illegal, arbitrary against the principle of natural justice and against the law.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 27.09.2023 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 19.12.2023 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 1st respondent, had preferred an appeal before the 2nd respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 23.10.2024. Hence, the petitioner is ready and willing to pay another 15% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders directing the 1st respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondents would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 15% of the disputed tax demand in addition to the 10% depsoite already being made by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. It appears that a reminder was also sent to the petitioner through GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order dated 19.12.2023 came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned assessment orders dated 19.12.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside on condition that the petitioner deposits 15% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% statutory deposit already made, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(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 2nd 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, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20-03-2025

rst

Index:Yes/No
Speaking/Non-speaking order
To:
1.The State Tax Officer / Commercial Tax Officer
Pallavaram Assessment Circle, Station Integrated Registration Commercial Taxes Building, III Floor Room No.345, Nandanam Chennai-600 035.

2.The Deputy Commissioner (CT), GST Appeal Chennai -II, CT Annexe Building, No.1 Greams Road, Chennai-600 006

KRISHNAN RAMASAMY J.

rst

WP No. 9604 of 2025

AND

WMP NO. 10758 OF 2025,

WMP NO. 10757 OF 2025

20-03-2025