IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10517 of 2025
& W.M.P.Nos.11838 & 11839 of 2025

Tvl.Smart Shapers,
Rep by its Proprietor, Sharmila,
New No.178, Old No.137,
Ashoka Nagar Main Road,
Arumbakkam, Chennai 600 106

... Petitioner

Vs.

The Deputy State Tax Officer II,
Arumbakkam Assessment Circle,
F-50, II Floor, First Avenue,
Anna Nagar, Chennai 600 102

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in GSTIN 33EANPS0844F1ZL/2018-19 dated 08.04.2024 and quash the same and consequently, direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.M.Desingu

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 08.04.2024 passed by the respondent.

2. Ms.K.Vasanthamala, 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 in this case, the show cause notice was issued by the respondent on 13.10.2023, for which a reply was filed by the petitioner. However, the impugned order dated 08.04.2024 came to be passed by the respondent by stating that no reply was filed by the petitioner. Hence, it is clear that the reply filed by the petitioner was not at all considered by the respondent while passing the impugned order. Further, he would contend that no

opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. In such case, it is clear that the impugned order came to be passed in violation of principles of natural justice and hence, he requests this Court to set aside the said impugned order.

4. That apart, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that in the present case, initially a show cause notice was issued on 13.10.2023, for which a reply was filed by the petitioner. However, she would fairly admit that the said reply was not at all considered by the respondent while passing the impugned order.

6. She would also admit that in this case, no opportunity of personal hearing was provided to the petitioner prior to the passing of

impugned order and hence, she requests this Court to pass appropriate orders.

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

8. In this case, though the reply was filed by the petitioner, the same was not considered by the respondent while passing the impugned assessment order. In such view of the matter, it is clear that the said impugned assessment order was passed by the respondent, in non-application of mind, without considering the reply filed by the petitioner.

9. Further, 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.

10. That apart, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 08.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 08.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from today (27.03.2025) 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 three weeks from the date of receipt of copy of this order.

(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.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

27.03.2025

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

To

The Deputy State Tax Officer II,
Arumbakkam Assessment Circle,
F-50, II Floor, First Avenue,
Anna Nagar, Chennai 600 102

KRISHNAN RAMASAMY.J.,

nsa

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