IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.9300 of 2025
& W.M.P.Nos.10441 & 10442 of 2025

Tvl.A.Shameel Ahmed & Co.,
(Now Defunct),
Rep by its Proprietor,
Mr.Aamina Shameel Ahmed,
Residing at 9/4, Noor Ahmed Street,
Pernambur, Vellore 635 810

... Petitioner

Vs.

The Deputy Commercial Tax Officer II,
Gudiyatham (West) Assessment Circle,
Integrated CT Building,
Parasuramanpatti, RS Road,
Gudiyatham 632 602

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in Ref.No.BT/DRC-07/B2/3/2023 dated 28.08.2024 and the connected order under Section dated 28.08.2024 issued in Ref.No.ZD330824260009G and quash the same as passed contrary to the provisions of the CGST Act, 2017 read with TNGST Act, 2017 and also passed in contrary to the principles of natural justice.

For Petitioner	:	Mr.Benuel Ritesh Rajkumar, for Mr.P.Rajkumar
For Respondent	:	Ms.P.Selvi, Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 28.08.2024 passed by the respondent.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the 1st 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 the present issue is pertaining to the assessment year 2019-2020. In this case, the GST Registration of the petitioner was voluntarily cancelled by the petitioner on 07.05.2021. Subsequent to the cancellation of GST

Registration, the show cause notice was issued by the respondent on 31.01.2023, for which a reply dated 27.08.2023 was filed by the petitioner. Thereafter, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner, which is a clear violation of principles of natural justice.

4. Further, he had referred to the provisions of Section 75(4) of the GST Act, 2017 and would submit that when the respondent is intend to pass an adverse order, they should have provided sufficient opportunity to the petitioner. However, in this case, no such opportunity was provided and thus, it is clear that the impugned order came to be passed not only in contrary to the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice and hence, he requests this Court to set aside the said impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent would fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to pass appropriate orders.

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

7. In the case on hand, it is an admitted fact that no opportunity of personal hearing was provided to the petitioner. As contended by the petitioner, if the respondents are intend to pass an adverse order against an Assessee, it is mandatory for them to provide sufficient opportunity to the Assessee prior to the passing of assessment order. However, in this case, no such opportunity was provided prior to the passing of impugned order. In such view of the matter, it is clear that the impugned order is not only in contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order dated 28.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the 2nd respondent is directed to de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

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

18.03.2025

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

To

The Deputy Commercial Tax Officer II,
Gudiyatham (West) Assessment Circle,
Integrated CT Building,
Parasuramanpatti, RS Road,
Gudiyatham 632 602

<u>KRISHNAN RAMASAMY.J.,</u>

nsa

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