IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.10763 of 2025
& W.M.P.Nos.12106 & 12107 of 2025

Venkatesan Padma

... Petitioner

Vs.

Commercial Tax Officer,
Kancheepuram Assessment Circle,
Commercial Tax Building,
CT Building, First Floor,
Collectorate Campus,
Kancheepuram 631 501

... 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 on the files of the respondent of impugned order in Ref.No.ZD3308241000308 passed under Section 73 of the Act dated 13.08.2024 passed by the respondent for FY 2019-20 and quash the same as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing in accordance with law.

For Petitioner : Mr.Logesh, for Mr.Sivaraman R

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 13.08.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, 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 13.05.2024, for which a replies dated 24.05.2024 and 27.05.2024 were filed by the petitioner. Subsequent to the filing of reply, no opportunity of personal hearing was provided to the petitioner. Under these circumstances, the impugned order dated 13.08.2024 came to be passed by the respondent in violation of principles of natural justice.

4. Further, he would submit that 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 the respondent had issued show cause notice dated 13.05.2024, for which the replies dated 24.05.2024 & 27.05.2024 had been filed by the petitioner. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner subsequent to the filing of reply. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

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

7. In the case on hand, initially, the show cause notice was issued by the respondent on 13.05.2024, for which the replies were filed by the petitioner on 24.05.2024 & 27.05.2024. Thereafter, the impugned order came to be passed by the respondent on 13.08.2024 without providing any opportunity of personal hearing to the petitioner. Hence, this Court is of the view that the impugned order was passed 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.

8. Further, 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 13.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 13.08.2024 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.

9. 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

Commercial Tax Officer,
Kancheepuram Assessment Circle,
Commercial Tax Building,
CT Building, First Floor,
Collectorate Campus,
Kancheepuram 631 501

KRISHNAN RAMASAMY.J.,

nsa

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