IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10305 of 2025
and
W.M.P.Nos.11609 & 11610 of 2025

M/s.SKS India Engineering
rep. by its Proprietor,
Mr.Abdul Kadhar. ...Petitioner

Vs.

The Deputy State Tax Officer,
Oragadam Assessment Circle
No.4/109, Third Floor, Bangalore, Chennai
Highway, Varadarajapuram, Nazarethpet,
Chennai – 123. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order dated 01.08.2024 passed by the respondent against the petitioner's Firm vide GSTIN : 33ACZFS6723R1ZZ for the assessment year 2019-20 and to quash the same.

For Petitioner : Mr.K.M.Malarmanan

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

Order

Heard Mr.K.M.Malarmanan learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 01.08.2024 for the assessment year 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner has not received any of the notices/communications sent by the respondent, hence, the petitioner could not file reply to the show cause notice, however, the respondent proceeded to confirm the proposals contained in the show cause notice without even affording an opportunity of personal hearing to the petitioner.

3.1 Therefore, the learned counsel would submit that the impugned order is an ex parte order and suffers from violation of principles of natural justice, as, the respondent has not issued any service of notice as contemplated under Section 169 of the GST Act, which prescribes modes of service such as registered post courier, e.mail etc.. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6.1 Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court is inclined to pass /issue the following orders/directions:-

i) The impugned order passed by the respondent dated 01.08.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.\

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

sd

Index : yes/no
Neutral Citation : yes/no

To
The Deputy State Tax Officer,
Oragadam Assessment Circle
No.4/109, Third Floor, Bangalore, Chennai
Highway, Varadarajapuram, Nazarethpet,
Chennai – 123.

Krishnan Ramasamy,J.,

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