IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10636 of 2025
AND
WMP NO. 11973 OF 2025,WMP NO. 11976 OF 2025

All India Islamic Foundation
Represented By Its General Manager,
VNA Jalauddin Ahamed,
No.688, Anna Salai Mount Road,
Chennai-600 006

Petitioner(s)

Vs

1.The Deputy Commissioner(ST)(FAC)
O/O.The Deputy Commissioner (ST),
GST -Appeal Chennai I, Room
NO.210, 2ND Floor, Main Building,
NO.1, Greams Road, Chennai-600 006.

2.The Deputy State Tax Officer/
The Deputy Commercial Tax Officer
Pondy Bazar Assessment Circle
No.46, 2nd Floor, Mylapore Taluk
Office, Grenways Road, Chennai.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue an writ of Certiorarified Mandamus, calling for the 2nd respondent demand order made in No. ZD330824080173H dated 10.08.2024 and the order dated 05.03.2025 of the 1st respondent made in ARN/AD3302250894723/2019-20/A1 and quash the same and consequently direct the respondents to given an opportunity of personal hearing.

For Petitioner(s): Mr.P.Suresh Babu

For Respondent(s): Ms.P.Selvi,
Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the demand order made in No. ZD330824080173H dated 10.08.2024 passed by the 2nd respondent and the order dated 05.03.2025 of the 1st respondent made in ARN/AD3302250894723/2019-20/A1 and quash the same and consequently direct the respondents to given an opportunity of personal hearing.

2.Ms.P.Selvi, 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 28.05.2024 was uploaded in the GST Portal and the petitioner had no ocassion to open the GST Portal. Even the impugned assessment order dated 10.08.2024 was also uploaded in the GST portal, which is violation of principle of natural justice. He would further submit that the petitioner preferred an appeal against the assessment order dated 10.08.2024 by depositing 10% of the disputed tax demand. However, the appeal was dismissed by the 1st respondent without providing any opportunity. Now, the petitioner is ready and willing to pay 15% of the disputed tax demand in respect of the impugned assessment period in addition to the pre-deposit already made by the petitioner while preferrring an appeal and hence, prayed to set aside the impugned order directing the 2nd 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 respondent 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 by the petitioner in respect of the impugned assessment period in addition to the 10% pre-deposit already made by the petitioner, 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 show cause notice and the impugned assessment order 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. When such being the case, this Court feels that when the respondents 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 respondents to choose an other effective mode of service instead of uploading the notices and the reminders on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before this Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order 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 orders dated 10.08.2024 and 05.03.2025 passed by the respondents. 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% pre-deposit already made by the petitioner while preferring an appeal, 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 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.

25-03-2025

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

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To

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