IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.9779 of 2025
& W.M.P.Nos.10958 & 10960 of 2025

Gyanthi Multiervices Private Limited,
Gorakhpur Uttar Pradesh,
Registered Office at Nekha No.1,
Moharipur, Gorakhpur,
Uttar Pradesh 273 007,

Principal Place of Business at
SY No.7/3A1B, H.A.0.70.85, Asst No.40,
Kurubarapalli, Krishnagiri,
Tamil Nadu 673 121,
Through its Director/Authorized Signatory,
Chandra Bhan Singh

... Petitioner

Vs.

Commercial Tax Officer,
Hosur, Tamil Nadu, Commercial Tax Office,
Krishnagiri Road, Sanasandiram, Hosur,
Tamil Nadu 635 109

... 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 file of the respondent relating to the impugned assessment order dated 16.10.2024 bearing Ref.No.ZD3310241020294 passed by the respondent herein under Section 74 of the TNGST Act, 2017 and the impugned rectification order dated 26.12.2024 bearing Ref.No.ZD3312242333600 passed by the respondent herein under Section 161 of the TNGST Act, 2017 and quash the same as illegal and consequently remit the matter back to the respondent to pass a fresh order after providing a reasonable opportunity to submit the reply as well as well as reasonable opportunity of personal hearing to the petitioner.

For Petitioner	:	Mr.Vikram Singh Dalal
For Respondent	:	Mr.C.Harsha Raj, Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 16.10.2024 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this case, the show cause notice was issued by the respondent on 04.10.2024. Subsequently, vide communication dated 08.10.2024, the petitioner made a request before the respondent to grant 10 days time for filing

their reply. However, without providing sufficient time to the petitioner, the impugned order came to be passed by the respondent on 16.10.2024, i.e., within a period of 8 days from the date of communication from the petitioner and 12 days from the date of issuance of show cause notice.

3. Further, by referring the provisions of Section 74 of the GST Act, 2017, he would submit that the said provisions mandates the proper officer to issue notice at least 6 months prior to the expiry of limitation for passing the impugned assessment order, which means, the respondents are supposed to issue show cause notice at least 6 months prior to the passing of final assessment order. However, in this case, the impugned order was passed by the respondent immediately after a period of 12 days from the date of issuance of show cause notice. Hence, he would contend that no sufficient time was provided to the petitioner prior to the passing of impugned order, which is not only in contrary to the provision of Section 74 of the Act but also in violation of principles of natural justice. Therefore, he requests this Court to pass appropriate orders,

4. In reply, after taking appropriate instructions from the Department, the learned Special Government Pleader appearing for the respondent had confirmed the submissions made by the petitioner and would fairly admit that no sufficient time/opportunity was granted to the petitioner. Hence, he requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent and also perused the materials available on record.

6. In the case on hand, the show cause notice was issued by the respondent on 04.10.2024. Subsequently, vide communication dated 08.10.2024, the petitioner made a request before the respondent to grant 10 days time for filing their reply. However, without acceding the said request, the impugned order came to be passed by the respondent on 16.10.2024, i.e., within a period of 8 days from the date of said communication from the petitioner and 12 days from the date of issuance of show cause notice.

7. As rightly contended by the petitioner, in terms of Section 74 of the GST Act, 2017, the respondents are supposed to provide at least a period of 6 months time to the petitioner, for filing their reply and to appear for personal hearing, prior to the passing of impugned order. However, in this case, the impugned order came to be passed by the respondent immediately within the period of 12 days from the date of issuance of show cause notice.

8. In view of the above, it is clear that the impugned order came to be passed by the respondent not only in contrary to the provisions of Section 74 of the GST Act, 2017, but also in violation of principles of natural justice. Therefore, this Court is inclined to set aside the impugned order dated 16.10.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 16.10.2024 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 2 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.

21.03.2025

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

To

Commercial Tax Officer,
Hosur, Tamil Nadu, Commercial Tax Office,
Krishnagiri Road, Sanasandiram, Hosur,
Tamil Nadu 635 109

KRISHNAN RAMASAMY.J.,

nsa

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