IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-03-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 9973 of 2025**
**AND**
**WMP NO. 11173 OF 2025,WMP NO. 11170 OF 2025**

Tvl Shomli Interiors
Rep by its Partner-Balasubramaniam
Mani, First Floor, No.7A, Palani Nagar,
Industrial Estate, Moulivakkam,
Chennai, Tamil Nadu-600125

Petitioner(s)

Vs

The Assistant Commissioner ST FAC
Ayyapanthagal Assessment Circle,
Poonamalle Zone, Kancheepuram
Division, No. 4/109 Chennai -
Bangalore Highways, Nazarathpet,
Chennai 123.

Respondent(s)

**PRAYER:-**Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the Respondent in the impugned order vide GSTIN 33ABVFS6011R2ZF/2019-20 dated 22.08.2024 along with consequential order in FORM GST DRC 07 vide ref no. ZD330824192411G dated 22.08.2024 passed under section 73 of the act to quash the same.

For Petitioner(s): Ms.R. Hemalatha

For Respondent(s): Ms.Amirta Poonko Didinakaran, Government Advocate (t)

**ORDER**

This writ petition has been filed by the petitioner seeking to call for the records relating to the impugned proceedings passed by the Respondent in the impugned order vide GSTIN 33ABVFS6011R2ZF/2019-20 dated 22.08.2024 along with consequential order in FORM GST DRC 07 vide ref no. ZD330824192411G dated 22.08.2024 passed under section 73 of the act to quash the same.

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 matter, the show cause notice was issued by the respondent on 30.05.2024, whereby the time limit for filing the reply was fixed on or before 30.06.2024 and the date of personal hearing was fixed on 01.07.2024. Thereafter, a reminder dated 05.07.2024 was sent by the respondent fixing time limit for filing reply till 12.07.2024 and the date of personal hearing on 12.07.2024. Thereafter, a reply dated 18.07.2024 was filed by the petitioner. However, without taking into consideration of the said reply, the impugned assessment order came to be passed by the respondent on 22.08.2024. Further, he would contend that no opportunity of personal hearing was provided by the respondent subsequent to the filing of reply.

4.He had also 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. In such 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 and the consequential notice.

5.Per contra, the learned Government Advocate appearing for the respondent would submit that in the present case, initially a show cause notice was issued on 30.05.2024, whereby the date for personal hearing was fixed on 01.07.2024. Subsequent to the issuance of said notice and a reminder dated 05.07.2025, a reply was filed by the petitioner on 18.07.2024. However, the said reply was not sufficient to satisfy the respondent. Under these circumstances, the impugned order came to be passed by the respondent.

6.Further, she would fairly admit that in this case, the personal hearing was fixed by the respondent well before the date of filing of reply and hence, she requests this Court to pass appropriate orders.

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

8.In these cases, the issue is with regard to the failure on the part of the respondent in providing an opportunity of personal hearing to the petitioner prior to the passing of impugned order dated 22.08.2024.

9.Initially, the notice in Form GST DRC-01 was issued on 30.05.2024, whereby the time limit for filing the reply was fixed on or before 30.06.2024. Thereafter, a reminder was sent to the petitioner fixing the date for filing reply till 12.07.2024. However, the petitioner filed his reply only on 18.07.2024 and the same was accepted by the respondent but the respondent had passed the impugned order dated 22.08.2024, without providing any opportunity of personal hearing, subsequent to the filing of reply, which is contrary to the provisions of Section 75(4) of the GST Act, 2017.

10.Normally, if the respondent is intend to pass an adverse order against an Assessee, they are supposed to provide sufficient opportunity to them prior to the passing of assessment order. In such case, the personal hearing should have been fixed only after the filing of reply and if it was fixed before the filing of reply, no useful purpose will be served.

11.For all the above reasons, it is clear that the impugned order was passed without providing any proper opportunity to the petitioner and hence, it is not only contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order dated 22.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of 15 days 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.

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

**20-03-2025**

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

rst

To

The Assistant Commissioner ST FAC
Ayyapanthagal Assessment Circle,
Poonamalle Zone, Kancheepuram
Division, No. 4/109 Chennai -
Bangalore Highways,
Nazarathpet, Chennai 123.

**KRISHNAN RAMASAMY J.**

rst

WP No. 9973 of 2025

AND

WMP NO. 11173 OF 2025,

WMP NO. 11170 OF 2025

20-03-2025