IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10753 of 2025
and
W.M.P.Nos.12095 and 12097 of 2025

Royal Furniture
Represented by its Proprietor,
K.A.Mansoor Ali,
Door No.11/4 IMAMBADA AREA,
Nethaji Road, Hosur,
Krishnagiri – 635 109. ... Petitioner

..Vs..

The Assistant Commissioner (ST)(FAC)
(also known as the Commercial Tax Officer)
Hosur (South) 3 Assessment Circle,
Integrated Commercial Taxes Building,
Seetharaman medu, Old Bus Stand,
Hosur-635 109. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of the Respondent herein in GSTIN/33BXQPM9484C1Z0/2018-19 in FORM GST DRC-07 proceedings in Order Reference No.ZD3309241926813 dated 27.09.2024 and quash the same.

For Petitioner : Ms.Siri Chandana K

For Respondent : Mr.C.Harsha Raj (Taxes)
Special Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the order dated 27.09.2024 passed by the respondent and to quash the same.

2. Mr.C.Harsah Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that the show cause notice dated 13.12.2023, for which the petitioner filed its reply on 11.03.2024 . Subsequently, the respondent,without considering the same has passed the impugned assessment order dated 27.09.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019 and the same was uploaded in the "Additional Notices and Orders" column of the GST Portal.

Therefore, the petitioner was not aware of the same. The petitioner came to know of the impugned assessment order only after the initiation of recovery proceedings by the respondent.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence she prays to set aside the impugned order.

6. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that since the petitioner has not submitted the proper reply and not submitted the required documents, impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, it the case of the petitioner that though the petitioner filed the reply to the show cause notice, the respondent without considering the same has passed the impugned assessment order. But, it is the case of the respondent that the petitioner had not submitted the proper reply for the show cause and no required documents have been produced. Under such circumstances, impugned order came to be passed.

10. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

11. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order

passed is 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. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 27.09.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.09.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent within a period of ***four weeks*** from the date of receipt of a copy of this order 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any, made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

26.03.2025

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

The Assistant Commissioner (ST)(FAC)
(also known as the Commercial Tax Officer)
Hosur (South) 3 Assessment Circle,
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Krishnan Ramasamy,J.,

arr

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