IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10767 of 2025
and
W.M.P.Nos.12113,12116 and 12118 of 2025

Sri Maruthi Enterprises,
Represented by its Proprietor,
Mr.Govindan Gopinathan,
Door No.4693, 2nd Street, 1st Main Road,
MMDA, MATHUR,
Manali, Chennai-600 068. ... Petitioner

..Vs..

1. Assistant Commissioner State Tax Officer
   Manali Assessment Circle,
   No.32, Elephant Gate Bridge Road,
   Wall Tax Road, Chennai-600 001.

2. Axis Bank,
   Represented by its Senior Manager,
   Thiruvottayur Branch, Chennai. ... Respondents

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 of the 1st respondent in impugned Order dated 27.04.2024 in GSTN No.33BJVPG0580N1ZR/2018-19 for the FY 2018-2019 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Ms.S.Sangeetha

For Respondent : Mr.C.Harsha Raj (R1)
Special Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the order dated 27.04.2024 passed by the 1st respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the 1st 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 24.08.2023 was issued to the petitioner by the 1st respondent, for which the petitioner's filed its reply on 29.09.2023. Thereafter, the 1st respondent issued reminder notice dated 23.04.2024 for personal hearing on 24.04.2024. The petitioner could not appear for personal hearing on the said

date, but the 1st respondent without granting further opportunity of personal hearing has passed the impugned assessment order dated 27.04.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019 and the same was uploaded in the "view additional notice and order" column of the GST portal and hence the petitioner was unaware of the same. The petitioner came to know of the impugned order only after receipt of attachment notice from the bank.

5. Further, he would submit that the 1st respondent ought to have provided one more opportunity of personal hearing to the petitioner before passing impugned order 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 1st Respondent after considering the reply filed by the petitioner has passed the assessment order. That apart opportunity of personal hearing was also provided to the petitioner prior to passing of impugned order and therefore principles of natural justice has been duly complied with.

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 1st 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 1st Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the 1st Respondent and also perused the materials available on record.

9. In the present case, show cause notice dated 24.08.2023 was issued to the petitioner, for which the petitioner submitted its reply on 29.09.2023. Thereafter reminder notice was issued to the petitioner on 23.04.2024 for personal hearing on 24.04.2024. Since the petitioner failed to appear on the said date, 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, since the petitioner could not appear before the authority concerned on the date fixed for personal hearing, the 1st respondent ought to have provided one more personal hearing to the petitioner, but instead the impugned order came to be passed by the 1st respondent 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 27.04.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 27.04.2024 is set aside and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the 1st 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 2nd respondent is directed 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

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2. Axis Bank,
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Krishnan Ramasamy,J.,

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