IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11378 of 2025
and
WMP Nos. 12828 & 12829 of 2025

Tvl Balamurugan Auto Point,
Rep. by its Prop. R.Sampathkumar,
T.S.No.355/11, R.S.Road,
Near Ashok Nagar, Vellore-632602.

Petitioner(s)

Vs

The Deputy State Tax Officer
Gudiyatham East Assessment Circle,
Integrated Taxes Building R.S.Road,
Parasurampatty, Veppur Village,
Gudiyatham-635 803.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the respondent in GSTIN 33AAOFB31781Z0/ 2018-19 dated 20.03.2024 and the consequential

DRC-07 having reference No ZD330324130962N dated 21.03.2024 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner(s): Mr.A.Chandrasekaran

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate (t)

ORDER

This Writ Petition filed by the petitioner seeking to call for the records of the respondent in GSTIN 33AAOFB31781Z0/ 2018-19 dated 20.03.2024 and the consequential DRC-07 having reference No ZD330324130962N dated 21.03.2024 and quash the same as illegal, arbitrary and against the principles of natural justice.

2.Mrs.K.Vasanthamala, learned Government Advocate (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 admission stage itself.

4.Learned counsel for the petitioner would submit that the petitioner was a dealer in motorcycles, cycles, motor cars and other motor vehicle, duly registered under the GST Act. The petitioner filed their returns in GSTR-1 and GSTR-3B for the Financial year 2018-19, after adjusting the ITC available to them. While so, the respondent issued show cause notice in DRC-01 dated 30.11.2021 and alleged that the petitioner has claimed ITC wrongly. The petitioner filed their reply to the show cause notice dated 30.11.2021 and attached the appeal order in A.P.No.AP/GST/19/2022, dated 06.07.2023 and explained that the issue raised in the present show cause notice and the said appeal are one and the same and the issue has been already decided in the appeal and therefore requested to drop the proceedings. However, the respondent without providing an opportunity of personal hearing, had confirmed the proposals mentioned in the show cause notice and passed the impugned order under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 without mentioning the fraud, wilful misstatement or suppression of facts, which is an arbitrary one.

5.He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

6.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

7.Considering the submission made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent, it is evident that though the reply has been filed by the petitioner, without taking into consideration of the reply filed by the petitioner and without providing an opportunity of personal hearing, the impugned assessment order has been passed, which is totally against the provision under Section 75(4) of the Central Goods and Services Tax Act, 2017.

8.Thus, in such circumstances, this Court is of the view that the assessment order came to be passed without affording an 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 20.03.2025 & 21.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, 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 additional 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.

01-04-2025

(½)

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

rst

To

The Deputy State Tax Officer
Gudiyatham East Assessment Circle,
Integrated Taxes Building R.S.Road,
Parasurampatty, Veppur Village,
Gudiyatham-635 803.

KRISHNAN RAMASAMY J.

rst

WP No. 11378 of 2025

and

WMP Nos. 12828 & 12829 of 2025

01-04-2025

(½)