IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10873 of 2025
and
W.M.P.Nos.12261 and 12263 of 2025

Tvl.Keethi Departmental Stores,
Rep. by its Proprietor Choyante Valappil Kadar
Muhammed Shameer,
No.6/34, Gopinath Complex,
Chettipalayam Main Road,
Pappampatti Post Via Ondipudur Sulur Taluk,
Coimbatore, Tamil Nadu-641402. ... Petitioner

..Vs..

The State Tax Officer,
Palladam-I Assessment Circle,
Palladam, Coimbatore,
Tamil Nadu-641 664. ... 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 of the impugned assessment order in Ref.No.ZD330224107822U dated 19.02.2024 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of order in DRC07 for the Financial Year 2018-19 issued by the respondent herein from the files of the respondent herein, quash the same.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the orders dated 01.08.2024 passed by the respondent and to quash the same.

2. Ms.Amirtha PoonkodiDinakaran, 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 time of admission stage itself.

4. The learned counsel for the petitioner submits that the intimation notice and the show cause notice were issued to the petitioner by uploading the same in "View Additional Notices and Orders" tab in the GST portal instead of "view notices and orders" tab and therefore the petitioner was not aware of the same and hence could not file its reply. Subsequently, the respondent passed the impugned assessment order along with summary order dated 19.02.2024, demanding tax along with interest and penalty for the Assessment Year 2018-

2019 and the same was also uploaded in the GST Portal. The petitioner came to know of the impugned orders belatedly and hence could not file appeal in time.

5. Further, she 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 Government Advocate (Taxes) appearing for the Respondent submitted that though the intimation notice as well as the Show Cause Notice were issued to the Petitioner, by uploading the same in the GST portal, the petitioner failed to submit its reply to substantiate its case and hence impugned assessment 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 Government Advocate (Taxes) appearing for the Respondent has no serious objection.

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

9. In the present case, since all the notices were uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply. 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 as well as summary order dated 19.02.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are 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.

Krishnan Ramasamy,J.,
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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 State Tax Officer,
Palladam-I, Assessment Circle,
Palladam, Coimbatore,
Tamil Nadu-641 664.

W.P.No.10873 of 2025