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.Nos.10876 and 10881 of 2025
and
W.M.P.Nos.12267 and 12268 of 2025

Tvl.G.S.Agencies,
Rep. by its Managing Partner **Mr.Mani Palanisamy,**
No.1, Sri Lakshmi Kuberan Mansion,
Thadagam Road, T V S Nagar,
Coimbatore, Tamil Nadu-641 025. ... Petitioner

..Vs..

The Deputy State Tax Officer-2,
Velandipalayam Circle,
Coimbatore ... Respondent

Prayer in W.P.No.10876 of 2025: 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.ZD330824193230J dated 22.08.2024 issued under Section 73 of the CGST/TNGST Act, 2017 for the financial year 2019-20 and uploaded along with the summary of order in GST DRC-07 from the files of the respondent herein,QUASH the same.

Prayer in W.P.No.10881 of 2025: 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.ZD330125217892K dated 24.01.2025 for the financial year 2019-20 and uploaded along with the summary of order in GST DRC-07 from the files of the respondent herein,QUASH the same.

For Petitioner (in both W.P.'s)	:	Ms.Aparna Nandakumar
For Respondent (in both W.P.'s)	:	Ms.P.Selvi Government Advocate (Taxes)

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COMMON ORDER

Since the issue involved and relief sought for in these writ petitions are one and the same, they are taken up together and disposed of by a common order.

2. The challenge in these writ petitions is to the orders dated 22.08.2024 and 24.01.2025 passed by the respondent and to quash the same.

3. Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

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

5. The learned counsel for the petitioner submits that the show cause notice dated 27.05.2024 was issued to the petitioner by uploading the same in the "View Additional Notices and Orders" column instead of "view orders and notices" column of the GST portal, without serving it through physical mode. Therefore, the petitioner's accountant has not noticed the same and therefore the petitioner also not aware of the show cause notice and hence could not file its reply. Subsequently, the respondent passed the impugned assessment order dated 22.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020 and the same was also uploaded in the GST Portal. The petitioner came to know of the impugned assessment order belatedly. Immediately the petitioner filed an application for rectification dated 20.11.2024 along with supporting documents, but the respondent rejected the same vide order dated 24.01.2025. Meanwhile, the respondent threatened recovery proceedings and therefore the petitioner could not file Appeal. Left with no other alternative the petitioner has come forward with W.P.No.10886 of 2025 challenging the impugned assessment order dated 22.08.2024 and W.P.No.10881 of 2025 challenging the order passed in the rectification

application dated 24.01.2025.

5. Further, she would submit that impugned orders 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 Show Cause Notice as well as the personal hearing notices were issued to the Petitioner, by uploading the same in the GST portal, the petitioner neither submitted its reply nor appeared for personal hearing 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 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 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.

12. Accordingly, these writ petitions are 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 Deputy State Tax Officer-2,
Velandipalayam Circle,
Coimbatore

Krishnan Ramasamy,J.,

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W.P.Nos.10876 and 10881 of 2025

26.03.2025