IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.11360 of 2025
and
W.M.P.Nos.12806 and 12808 of 2025

Aravindar Residency
No.2B, Elcot Avenue Road,
Sholinganallur,
Chennai-600 119
Rep. by its Proprietor Mr.G.Ravi ...Petitioner

Vs.

Dy. State Tax Officer -2,
Kelambakkam Assessment Circle,
Chengalpattu. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondent leading to issuance of Impugned Order dated 20.08.2024 vide Reference No.ZD330824164658Y as modified by Order dated 29.11.2024 vide Reference No.ZD331124300410D and quash the same and direct the Respondent to pass order after giving an opportunity to the Petitioner to file its reply and after affording personal hearing.

For Petitioner : Mr.S.Sathyanarayanan

For Respondent : Ms.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the orders of the respondent dated 30.04.2024 and to quash the same.

2. Ms.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 time of admission stage itself.

4. The learned counsel for the petitioner submits that GST registration of the petitioner was cancelled on 27.03.2024. Thereafter, show cause notice dated 20.08.2024 was issued to the petitioner and the same was uploaded in the "Additional Notices and Orders" column of the GST portal, without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and hence failed to submit its reply. But the respondent

without considering the same has passed the impugned assessment order dated 20.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020. Subsequently, the respondent passed the order dated 29.11.2024 rectifying the assessment order dated 20.08.2024. The petitioner came to know of the same after getting a call from the respondent regarding the recovery of dues.

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

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices the petitioner failed to submit its reply and therefore the assessment order came be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% 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, it is the case of the petitioner that since the show cause notice was uploaded in the GST portal, the petitioner was unaware of the same and hence could not filed its reply. Under such circumstances, impugned assessment order came to be passed.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned assessment 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 orders dated 20.08.2024 and 29.11.2024 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 10% 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.

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

28.03.2025

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

Dy. State Tax Officer -2,
Kelambakkam Assessment Circle,
Chengalpattu.

Krishnan Ramasamy,J.,

arr

W.P.No.11360 of 2025

28.03.2025