IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10629 of 2025
and
W.M.P.Nos.11959 & 11961 of 2025

Tvl. Nazar Traders,
rep. by its Proprietor, Hanifa Nazar

...Petitioner

Vs.

1. The Deputy State Tax Officer -I
   Office of the Deputy Commercial Tax Officer,
   Cuddalore Town Assessment Circle, T.N.

2. The State Officer (Audit-I)
   Joint Commissioner Office, Cuddalore. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the impugned order passed by the first respondent in GSTIN : 33AKYPN5064H1Z0/2019-20 dated 27.08.2024, along with consequential order issued in Form GST DRC 07 vide Ref.No.ZD330824236889S dated 27.08.2024 passed under Section 73 of the Act and to quash the same.

For Petitioner : Ms.R.Hemalatha
For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

Order

Heard Ms.R.Hemalatha learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the the first respondent dated 27.08.2024, along with consequential order issued in Form GST DRC 07 dated 27.08.2024 passed under Section 73 of the Act and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned orders, were merely uploaded in the GST Portal under the "View Additional Notices Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned orders came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned orders. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Additional Government Pleader (T) for the respondents fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned orders were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the first respondent passed the impugned orders without even affording any opportunity of hearing to the petitioner, which are nothing but ex parte orders, as the same suffers from violation of principles of natural justice.

6. Thus, once the orders are passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first respondent dated 27.08.2024 along with consequential order dated 27.08.2024 are set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

1. The Deputy State Tax Officer -I
   Office of the Deputy Commercial Tax Officer,
   Cuddalore Town Assessment Circle, T.N.

2. The State Officer (Audit-I)
   Joint Commissioner Office, Cuddalore.

Krishnan Ramasamy,J.,

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