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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11666 of 2025
& W.M.P.Nos.13190 & 13194 of 2025

Sri Krishna Enterprises,
Rep by its Proprietor, Sujatha Kumaresan,
No.64, C P Citrarasu Street,
Thiruvalluvar Nagar, Arumbakkam,
Chennai 600 106

... Petitioner

Vs.

The State Tax Officer (FAC),
Arumbakkam Assessment Circle,
No.1, Greams Road, 3rd Floor,
PAPJM Annex Building,
Chennai 600 006

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order vide Ref.No.33AMXPS11999 M1ZT/2019-20 dated 30.08.2024 passed by the respondent and consequently, direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

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For Petitioner : Ms.K.Anusuya

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 30.08.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the show cause notice was issued by the respondent on 01.09.2022, for which a reply dated 03.07.2023 was filed by the petitioner. Thereafter, the impugned order dated 30.08.2024 came to be passed by the

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respondent without providing any opportunity of personal hearing to the petitioner, which is a clear violation of principles of natural justice.

4. Further, he had referred to the provisions of Section 75(4) of the GST Act, 2017 and would submit that when the respondent is intend to pass an adverse order, they should have provided sufficient opportunity to the petitioner. However, in this case, no such opportunity was provided and thus, it is clear that the impugned order came to be passed not only in contrary to the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice and hence, he requests this Court to set aside the said impugned order.

5. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

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6. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

8. In the case on hand, it is an admitted fact that no opportunity of personal hearing was provided to the petitioner. As contended by the petitioner, if the respondents are intend to pass an adverse order against an Assessee, it is mandatory for them to provide sufficient opportunity to the Assessee prior to the passing of assessment order. However, in this case, no such opportunity was provided prior to the passing of impugned order. In such view of the matter, it is clear that the impugned order is

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not only in contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice.

9. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 30.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from today (01.04.2025) and the setting aside of the impugned order will take effect from the date of payment of the said amount.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

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(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, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

01.04.2025

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

To

The State Tax Officer (FAC),
Arumbakkam Assessment Circle,
No.1, Greams Road, 3rd Floor,
PAPJM Annex Building,
Chennai 600 006

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