IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11522 of 2025
and
W.M.P.Nos.13013 & 13014 of 2025

M/s.S.R.Stamping Components
rep. by its Proprietor R.Rajesh ...Petitioner

Vs.

The Assistant Commissioner
Irungattukottai Division,
O/o. the Assistant Commissioner of GST & Central Excise
Chennai Outer Commissionerate,
C-48, TNHB Building, Anna Nagar,
Chennai – 600 040. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the impugned order passed by the respondent in Order-in-Original No.282/2024-AC/DC dated 27.08.2024 along with Form GST DRC-07 bearing Ref.No.ZD330824305098F dated 31.08.2024 and to quash the same and consequently, to direct the respondent to entertain the records, documents and reply from the petitioner.

For Petitioner : Mr.M.Hariharan
For Respondent : Mr.Rajnish Pathiyil
Senior Standing Counsel

Order

Heard Mr.M.Hariharan learned counsel appearing for the petitioner and Mr.Rajnish Pathiyil, learned Senior Standing Counsel, who takes notice on behalf of the respondent. 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-in-Original passed by the respondent dated 27.08.2024 along with Form GST DRC-07 dated 31.08.2024 and to quash the same and consequently, to direct the respondent to entertain the records, documents and reply from the petitioner.

3. The learned counsel for the petitioner would submit that, on receipt of a show cause notice dated 29.05.2024, the petitioner's Chartered Accountant appeared before the respondent for the personal hearing on 24.07.2024 and made a representation seeking time for filing relevant documents, however, the petitioner could not file documents, as their GST Consultant was not well, but, the respondent, without even affording an opportunity of personal hearing to the petitioner, passed the impugned order.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. however, he fairly submitted that, in the event, this Court is inclined to set aside the impugned order, the petitioner is ready and willing to deposit 25% of the disputed tax and hence, prays for setting aside the impugned order and remanding the matter back to the respondent for fresh consideration.

4. The learned Senior Panel Counsel (T) for the respondent fairly submitted that no personal hearing opportunity was granted to the petitioner subsequent to the reply filed by the petitioner and before passing the impugned order, however, since the petitioner has come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, a notice in Form GST ASMT -10 was issued by the respondent, wherein, discrepancy was cited in the Form GSTR 3B filed by the petitioner and interest and fee for late filing of returns was imposed. The petitioner filed a reply on 25.03.2024, stating that in relation to the discrepancy in Form GSTR-3B and Form GSTR-2A, the same is due to non-filing of returns by M/s.Chowel India Pvtl .d., as the said Company was under legal proceeding, and in relation to the interest and fee for filing of late returns, the same was undertaken and paid by the petitioner.

6.1 Thereafter, the petitioner was issued with a show cause notice dated 29.05.2024, in relation to the discrepancy in Form GSTR-3B and Form GSTR-2A, and with regard to the interest and fee for filing of late returns, the proceedings were dropped. The petitioner's Consultant appeared on 24.07.2024 and made a representation requesting the respondent to grant some time for filing supportive documents. In fact, the respondent also vide notice dated 31.07.2024, requested the petitioner to furnish documents. Unfortunately, the petitioner was not in a position to file relevant documents, as the petitioner's Consultant was changed. Therefore, the respondent ought to have granted one more opportunity to the petitioner to file documents, as the petitioner, had already show their bona fide, when Form GST ASTM-10 notice was issued to them by filing proper reply and also making the payment towards interest and fee for late filing of returns, instead, the respondent proceeded to confirm the proposals contained in the show cause notice, without even affording an opportunity of personal hearing to the petitioner.

6.2 Therefore, as rightly pointed out by the learned counsel for the petitioner the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. Thus, once the order is 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 Senior Standing Counsel is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 27.08.2024 along with Form GST DRC-

07 dated 31.08.2024 passed by the respondent are set aside.

ii) Consequently, the matter is remanded to the 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 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.

01.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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O/o. the Assistant Commissioner of GST & Central Excise
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Chennai – 600 040.

Krishnan Ramasamy,J.,

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