IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.11009 of 2025 and
WMP.No.12412 of 2025

S and P Trading Solution LLP
Represented by its Partner
Mr.Srijana Chettri,
Plot No.1258, Flat No.6,
19th Main Road, Anna Nagar,
Chennai - 600 040.

...Petitioner

Vs.

1. The Deputy State Tax officer - II,
   Amaindakarai Assessment Circle,
   No.F-50, 1st Avenue,
   Anna Nagar East, Chennai - 600 102.

2. The Assistant Commissioner (ST)
   Amaindakarai Assessment circle
   IIIrd Floor, PAPJM Building - Annexe
   Greams Road, Chennai - 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records in impugned Assessment order passed by the second respondent made in

RFN:MA331224288864M dated 26.12.2024 and quash the same and direct the first respondent to permit the petitioner to file an appeal under Section 107 of the TNGST Act 2017, condoning the delay in preferring an appeal before the Appellate authority and consider the same without insisting on delay.

For Petitioner : Mr.V.R.Kamalanathan
for Mr.R.Mani Barathi

For Respondents : Mr.T.N.C Kaushik,
Additional Government Pleader (Taxes)

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), 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 dated 26.12.2024 passed by the second respondent for the AY 2019-20 and to quash the same and to direct the first respondent to permit the petitioner to file an appeal under Section 107 of the TNGST Act 2017, condoning the delay in preferring an appeal before the Appellate authority and consider the same without insisting on delay.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 20.05.2024, for which the petitioner submitted its reply on 28.06.2024. Subsequently, the 1st respondent issued a notice of personal hearing on 24.08.2024 and the same was uploaded in the GST portal without serving physical copy. Therefore, the petitioner was not aware of the same and hence could not appear for personal hearing. Thereafter, the first respondent has confirmed the proposals contained in the show cause notice and passed the impugned order dated 29.08.2024. 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.

4. The learned Additional Government Pleader (Taxes) for the respondents fairly agreed that opportunity of personal hearing has not been granted to the petitioner before passing the impugned order and hence prayed for appropriate orders.

5. Heard both sides. Perused the records.

6 A perusal of the records would go to show that no opportunity of personal hearing was provided to the petitioner before passing impugned order. Therefore, Section 75(4) of the TNGST Act, 2017 has not been complied with by the respondent. That apart, 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 healring 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.

7. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside. Accordingly, this Court passes the following order:

i) The impugned order passed by the 2nd respondent dated

26.12.2024 is set aside.

ii) Consequently, the matter is remanded to the 2nd respondent for fresh consideration.

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

iv) Thereupon, the 2nd respondent is directed to consider the reply and shall issue a clear 7 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

18.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

1. The Deputy State Tax officer - II,
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   No.F-50, 1st Avenue,
   Anna Nagar East, Chennai - 600 102.

2. The Assistant Commissioner (ST)
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   IIIrd Floor, PAPJM Building - Annexe
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KRISHNAN RAMASAMY, J.

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