IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

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The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.11239 of 2025
and
W.M.P.Nos.12683 and 12684 of 2025

M/s.Gugan Knits,
A Partnership Firm,
Rep. by its Partner Velumani Moorthy,
Having its Office at 16/13, Amman Nagar,
Sirupuluvapatti, Tiruppur-641603. ...Petitioner

Vs.

1. The Deputy Commissioner (CT)(Appellate Authority),
   Anupparpalayam Circle, Tirupur.

2. The Assistant Commissioner (ST),
   Anupparpalayam Circle, Tirupur. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari pertaining to the impugned order passed by the 2nd Respondent dated 02.12.2023 bearing number ZD331223009565Q and quash the same as illegal, unconstitutional and against the principles of natural justice.

For Petitioner : Mr.Sharukumar S

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

ORDER

This Writ Petition has been filed challenging the order of the respondent dated 02.12.2023 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 the show cause notice dated 28.03.2024 was issued to the petitioner by uploading the same in the GST portal, without serving physical copy to the petitioner. Since the Petitioner's agent was not regularly logging into the GST portal, the petitioner was not aware of the same and hence failed to submit its reply. Subsequently, the respondent passed the assessment order dated 02.12.2023, demanding tax along with interest and penalty for the Assessment Year 2017-2018. Pursuant

to the impugned order, a sum of Rs.1,28,784/- has been recovered from the petitioner's bank account. The petitioner came to know of the impugned order only after the said recovery. Immediately the petitioner filed Appeal before the 1st respondent on 01.05.2024 and the same was rejected vide order dated 09.07.2024.

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 2nd respondent issued show cause notice and personal hearing notice to the petitioner, the petitioner failed to submit its reply and also appear for personal hearing. As far as the contention of the petitioner with regard to the aforesaid sum of Rs.1,28,784/- is concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case since the show cause notice was uploaded in the GST portal, the petitioner was not aware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

9. 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 hearing 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.

10. In the case on hand, the impugned orders came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned 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

assessment order dated 02.12.2023 passed by the 2nd Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein are set aside.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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.

(iv) The Respondent is at liberty to recover 25% of disputed tax liability in case, if no amount has been paid by the petitioner as stated by the learned counsel for the petitioner.

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

1. The Deputy Commissioner (CT)(Appellate Authority),
   Anupparpalayam Circle, Tirupur.

2. The Assistant Commissioner (ST),
   Anupparpalayam Circle, Tirupur.

Krishnan Ramasamy,J.,

arr

W.P.No.11239 of 2025

28.03.2025