



W.P.No.10914 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10914 of 2025

and

W.M.P.Nos.12311 and 12312 of 2025

Visalaatchi Food India Pvt. Ltd.,
Represented by its Managing Director B.Devarajan
1/267, Santhur Main Road, Pochampalli,
Krishnagiri-635 206

...

Petitioner

..Vs..

The Assistant Commissioner (ST)(FAC)/
Commercial Tax Officer,
1/267, Santhur Main Road, Pochampalli,
Krishnagiri-635 115.

...

Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the impugned order of the Respondent in GSTIN:33AACCV1590K1Z8/2019-20 dated 15.10.2024 along with Summary of Order in Form GST DRC-07 bearing Reference No.ZD331024090649B dated 15.10.2024 and quash the same and consequently direct the Respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.



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For Petitioner : Mr.M.Hariharan

For Respondent : Ms.P.Selvi

Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the assessment order along with summary order dated 15.10.2024 passed by the respondent and to quash the same and consequently direct the Respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

2. Ms.P.Selvi, 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 04.11.2023 was issued to the petitioner. Pursuant to which, when the petitioner was under the process of collecting certain documents sought for by the respondent, the respondent passed the impugned assessment order dated 15.10.2024, demanding tax along with interest and penalty for the Assessment



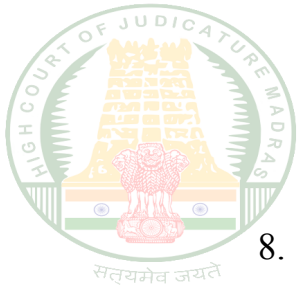
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Year 2019-2020 and the same was also uploaded in the GST Portal. The petitioner came to know of the impugned assessment order belatedly.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence he prays to set aside the impugned order.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the reminder notice were issued to the Petitioner, the petitioner had failed to submit its reply and hence impugned assessment order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) appearing for the Respondent has no serious objection.



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

9. In the present case, when the petitioner was under the process of collecting certain documents for giving reply to the show cause notice, the petitioner was unaware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

10. 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.

11. In the case on hand, the impugned order 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



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assessment order as well as summary order dated 15.10.2024 passed by the

Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order as well as summary order dated 15.10.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent within a period of *four weeks* from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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.

KRISHNAN RAMASAMY, J

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12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

26.03.2025

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

The Assistant Commissioner (ST)(FAC)/
Commercial Tax Officer,
1/267, Santhur Main Road, Pochampalli,
Krishnagiri-635 115.

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