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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.11676 of 2025
and
W.M.P.Nos.13207 and 13208 of 2025

Tvl.Sri Ram Construction
(Represented by its Partner S.Kamalakannan)
388, 7th Cross Street, VOC Nagar, Kallakurichi,
Villupuram 606 202. ...Petitioner

Vs.

State Tax Officer,
Kallakurichi Assessment Circle,
S F No 103/5 Neepal Street Extension
Near STC Bus Depot Kallakurichi 602 202. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to impugned order bearing Reference Number:33ACBFS2554C1ZL/2018-19 dated 05.09.2024 along with summary order bearing Reference No:ZD330924039964Z dated 05.09.2024 passed by the Respondent and quash the same.

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For Petitioner : Mr.Gowtham P

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the orders of the respondent dated 05.09.2024 and to quash the same.

2. Mr.V.Prashanth Kiran, 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 show cause notice dated 15.07.2024 was issued to the petitioner by uploading the same in the GST Portal, without serving the physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and hence could not file its reply. In the meantime, the respondent passed the impugned assessment order along with summary order dated 05.09.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019 and the same was also

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uploaded in the GST portal. Pursuant to the said orders, the bank account of the petitioner was also attached. The petitioner came to know of the impugned order belatedly.

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 Show Cause Notice followed by reminder notice as well as personal hearing notice were issued to the Petitioner, by uploading the same in the GST portal, the Petitioner neither submitted its reply nor appeared for personal hearing and therefore impugned assessment order along with summary order came 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

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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.

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, since all the notices were uploaded in the GST portal, the petitioner was not aware of the same and therefore failed to submit its reply.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned orders. Hence, this Court is of the view that the impugned orders 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 orders dated 05.09.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

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(i) The orders impugned herein are 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, made on the bank account of the Petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned bank to

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release the attachment on the bank account of the petitioner, on production of proof with regard to payment of 25% as stated above.

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

02.04.2025

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

Assistant Commissioner [ST][FAC]
KK Nagar Assessment Circle
5th Floor, PAPJM Annex Building,
Greams Road, Chennai-6.

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<u>Krishnan Ramasamy,J.,</u>

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