IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11886 of 2025
and
W.M.P.Nos. 13456 & 13457 of 2025

Tvl. M.S.Agencies,
rep. by its Proprietor,
Panumull Ashok Kumar Dugar.
2A DUGAR TOWER MADURAVOYAL
CHENNAI TAMIL NADU 600 095. ...Petitioner

Vs.

The ASSISTANT COMMISSIONER
CGST AND CENTRAL EXCISE
POONAMALLEE DIVISION, TAMIL NADU. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in Order dated 20.02.2025, having Reference No. 54/2025-AC/DC in GSTN 33AADPD8081D1Z5 /2020-21 and quash the same as illegal arbitrary and in violation of principle of natural justice.

For Petitioner : Mr.Ramesh Kumar Chopra
Mr.Pranav Jain and Hemant Bohra.B.
For Respondent : Mrs.Revathi Manivannan
Senior Standing Counsel

Order

Heard Mr.Pranav Jain, learned counsel appearing for the petitioner and Mrs.Revathi Manivannan, 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 passed by the respondent dated 20.02.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned order were merely uploaded in the GST Portal under the column, "View additional notices and orders", unfortunately, the Consultant, who was engaged by the petitioner for filing returns, failed to note those notices and intimate the petitioner, since the Consultant was busy in completing the audit proceedings for the financial year, hence, the petitioner, who was not aware of those notice did not file reply to those notices, however, since the petitioner failed to file reply, the respondent, without giving any opportunity of personal hearing to the petitioner, confirmed the proposals contained in the show cause notice and passed the present 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. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned order, the petitioner is agreable to pay 10% of the disputed tax amount and hence, prayed for appropriate orders.

4. The learned Senior Standing Counsel for the respondent fairly submitted that if the petitioner is ready and willing to deposit 10% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and on perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, under the "View additional notices and orders" which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. That apart, even the Consultant engaged by the petitioner also failed to view those notices. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. 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 10% 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 20.02.2025 is set aside and the matter is remanded back to the respondent for fresh consideration.

ii) While remanding the matter, it is made clear that the impugned order is set aside subject to the condition that the petitioner deposits 10% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order.

iii) Thereafter, the petitioner shall file a reply within two weeks and after the filing of reply, the respondent is directed to provide personal opportunity of hearing by issuing clear 14 days notice and after hearing the petitioner in full, 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.

04.04.2025

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Index : yes/no
Neutral Citation : yes/no

To
The ASSISTANT COMMISSIONER
CGST AND CENTRAL EXCISE
POONAMALLEE DIVISION, TAMIL NADU.

Krishnan Ramasamy,J.,

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W.P.No.11886 of 2025

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