IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.11318 of 2025
and
W.M.P.No.11318 of 2025

Tvl.Madhu Telecom Communications,
Rep. by its Proprietor-Madhu,
No.1/163, Elavampatti, Thirupathur,
Vellore,
Tamil Nadu-635601. ...Petitioner

Vs.

The State tax Officer,
Office of the Commercial Tax Officer,
Thiruppattur Assessment Circle,
No.442, Ward-I, Block-18,
Integrated Commercial Taxes Building Ground Floor,
Pudupettai Road,
Thiruppattur-635601. ... 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 the impugned order passed by the Respondent in GSTIN:33AOZPM6875J1ZY/2019-20 dated 24.08.2024 along with consequential order in FORM GST DRC 07 vide ref no.ZD330824222251T dated 24.08.2024 passed under Section 73 of the act and to quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Ms.Amirthapoonkodi Dinakaran
Special Government Pleader (Taxes)

ORDER

This Writ Petition has been filed challenging the orders of the respondent dated 24.08.2024 and to quash the same.

2. Mr.Harsha Raj, learned Special Government Pleader (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 followed by three reminder notices were issued to the petitioner by the respondent and the same were uploaded in the GST Portal. Since the petitioner had no knowledge to access GST portal and as the accountant of the petitioner firm failed to inform about the same, the petitioner was unaware of the

aforesaid notices and hence failed to submit its reply. Subsequently, impugned order dated 24.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020.

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 Special Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices were issued to the Petitioner, the Petitioner failed to submit its reply to substantiate its case and therefore the assessment 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 them to file their reply along with the required documents to substantiate their

claim, for which, the learned Special Government Pleader (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (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 and as the petitioner's accountant failed to inform the same to the petitioner, the petitioner is unaware of the said notices and hence failed to submit its reply. Under such circumstances, impugned orders came to be passed.

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 24.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(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.

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

The State tax Officer,
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Thiruppattur Assessment Circle,
No.442, Ward-I, Block-18,
Integrated Commercial Taxes Building Ground Floor,
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Krishnan Ramasamy,J.,

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