IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 28.03.2025**

Coram

**The Hon'ble Mr.Justice KRISHNAN RAMASAMY**

**W.P.No.11317 of 2025**
**and**
**W.M.P.Nos.12755 and 12756 of 2025**

Sri Balaji modern rice mill,
Rep. by its Partner-Balaji Rajendren
No.22, Eluppakunam Road, Kalambur,
Tiruvannamalai, Tamilnadu-606903. ...Petitioner

Vs.

The State tax Officer, (Inspection-V),
Office of the Commercial tax Officer,
Vellore. ... 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 of the impugned proceedings passed by the Respondent in the impugned order in GSTIN: 33AATFS4470R1Z9/2020-2021 dated 30.04.2024 along with the consequential proceedings under Section 74 in FORM GST DRC 07 vide ref. no.ZD330424245218K dated 30.04.2024 FY 2020-2021 to quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Ms.Amirthapoonkodi Dinakaran

Government Advocate (Taxes)

**ORDER**

This Writ Petition has been filed challenging the orders of the respondent dated 30.04.2024 and to quash the same.

2. Ms.Amirthapoonkodi Dinakaran, 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 20.10.2023 was issued to the petitioner, for which the petitioner submitted its reply on 30.11.2023 along with supporting documents. But the respondent without considering the same has passed the impugned orders dated 30.04.2024, demanding tax along with interest and penalty for the Assessment Year 2020-2021.

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 notices were issued to the Petitioner, the Petitioner neither filed its reply nor appeared for personal hearing 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 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, it is the case of the petitioner that though the petitioner submitted its reply to the show cause notice, the respondent without considering the same has passed the assessment order.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. 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 orders dated 30.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The order impugned herein 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.

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**
(1/2)

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

The State tax Officer, (Inspection-V),
Office of the Commercial tax Officer,
Vellore.

**Krishnan Ramasamy,J.,**

arr

**W.P.No.11317 of 2025**

**28.03.2025**