IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11981 of 2025
& W.M.P.Nos.13546 & 13547 of 2025

M/s.VSG Motors,
Rep by its Partner, K.Prabhu,
No.1, L.Na.Gandhi Road,
Anupparpalayampudhur,
Tiruppur 641652

... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FAC),
Anupparpalayam Assessment Circle,
Tirupur

2.The Commercial Tax Officer,
Office of the Anupparpalayam,
Tiruppur-I, Tiruppur

3.The Principal Commissioner of CGST and Central Excise,
GST Bhawan, 26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in its impugned order in GSTIN 33AAJFV8353N1ZI/2018-19 dated 24.04.2024 relating to the AY 2018-19 and quash the same and consequently direct the 1st respondent to redo the assessment afresh after giving opportunity to the petitioner.

For Petitioner : Ms.R.Reka

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate for R1&2
Ms.Revathi Manivannan,
Senior Standing counsel for R3

ORDER

This writ petition has been filed challenging the impugned order dated 24.04.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondents 1 & 2 and Ms.Revathi Manivannan, learned Senior Standing counsel takes notice on behalf of the 3rd respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the notice in Form GST DRC 01 was uploaded by the respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notice, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate and the learned Senior Standing counsel appearing for the respondents would submit that the respondents had duly uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity.

Further, they had fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, they requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate and the learned Senior Standing counsel for the respondents and also perused the materials available on record.

7. In the case on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 24.04.2024 passed by the 2nd respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 24.04.2024 is set aside and the matter is remanded to the 2nd respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from today (03.04.2025) 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 three weeks from the date of receipt of copy of this order.

(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.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

03.04.2025

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

To

1.The Assistant Commissioner (ST)(FAC),
Anupparpalayam Assessment Circle,
Tirupur

2.The Commercial Tax Officer,
Office of the Anupparpalayam,
Tiruppur-I, Tiruppur

3.The Principal Commissioner of CGST and Central Excise,
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KRISHNAN RAMASAMY.J.,

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