IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.12646 of 2025
and
W.M.P.Nos.14234 and 14236 of 2025

M/s.R.Elizabeth Rani ...Petitioner

..Vs..

1. The Assistant Commissioner of CGST and
Central Excise, Madhavaram Division,
Chennai North Commissionerate,
Newry Towers, Anna Nagar, 2nd Avenue,
Chennai-40.

2. Superintendent of CGST & C.E.,
Range-I, Madhavaram Division,
Newry Towers, Anna Nagar, 2nd Avenue,
Chennai-40. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the Respondent No.1's order dated 11.08.2023 with Order-in-Original No.57/2023 (ST) and quash the same.

For Petitioner : Mr.J.Adithya Reddy

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

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ORDER

The challenge in this writ petition is to the order dated 11.08.2023 passed by the 1st Respondent and to quash the same.

2. Mr.A.P.Srinivas, learned Senior Standing Counsel, 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 20.10.2021 was issued to the petitioner. Due to some Medical emergency, the petitioner could not submit her reply. In the meantime, the respondent passed the impugned order dated 11.08.2023, demanding tax along with interest and penalty for the Assessment Year 2016-2017. The petitioner came to know of the impugned order only after the issuance of recovery notice dated 21.11.2023 by the 2nd respondent.

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 impugned order passed is in violation of principles of natural justice and that apart time for filing appeal as against the impugned order also got expired. Hence he prays to set aside the impugned order.

6. The learned Senior Standing Counsel appearing for the Respondents submitted that since the Petitioner failed to submit the reply to the show cause notice, impugned 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 15% of the disputed tax liability made by the respondents 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 Senior Standing Counsel appearing for the Respondents has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel (Taxes) for the Respondents and also perused the materials available on record.

9. In the present case, due to some medical emergency, the petitioner could not file reply to the show cause notice.

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 assessment order dated 11.08.2023 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 15% 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.

08.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,

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To

The Deputy Commercial Tax Officer,
Office of the Deputy Commercial Tax Officer,
Vangaram Circle, Poonamallee Zone,
No.4/109, 4th Floor,
Integrated State Tax Offices Building,
Trunk Road, Varadharajapuram,
Nazarathpet, Chennai 600123.

W.P.No.12646 of 2025

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