IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11465 of 2025
and
W.P.Nos.12948 to 12950 of 2025

M/s.White Field Enterprises,
Rep. by its Managing Partner
Mr.D.Thiagarajan,
55/16, Ground, Nilgiris, Annai
Velankanni Church Road,
Besant Nager, Chennai-600 090.
[GSTIN No:33AAAFW926WC1Z9] ... Petitioner

Vs.

1. The Additional Commissioner of GST
(Appeals-II),
Office of the Commissioner of GST & Central
Excise (Appeals-II),
Newry Towers, 2nd Floor, No.2054/1,
II Avenue, 12th Main Road, Anna Nagar,
Chennai- 600 040.

2. The Assistant Commissioner (GST & CE),
Office of the Assistant Commissioner of GST & Central
Excise, Perungudi Division, Chennai-South
Commissionerate, 692, M.H.U. Complex, 8th Floor,
Anna Salai, Nandanam,

Chennai-600 035. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandams to call for the records pertaining to the Order in Appeal No.210/2024 (GSTA-II) (JC) dated 31.07.2024 bearing DIN:30240759KU000000BAE2, passed by the 1st respondent and quash the same and consequently direct the 1st Respondent to afford an opportunity of personal hearing together with submission of relevant evidence and documents.

For Petitioner : Mr.Jayaprathap A N R
for Ms.Pushpa Venkatesan
For Respondents : Mr.Rajendran Raghavan
Senior Standing Counsel

ORDER

This writ petition has been filed challenging the Order in Appeal No.210/2024 (GSTA-II) (JC) dated 31.07.2024 bearing DIN:30240759KU000000BAE2, passed by the 1st respondent and quash the same and consequently direct the 1st Respondent to afford an opportunity of personal hearing together with submission of relevant evidence and documents.

2. Mr.Rajendran Raghavan, learned Senior Standing Counsel takes notice on behalf of the Respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner would submit that show cause notice dated 18.01.2022 was issued to the petitioner, for which the petitioner submitted its detailed reply on 08.02.2022 and that apart the petitioner's representative appeared for personal hearing and advanced the further submissions. Subsequently, the 2nd respondent passed the assessment order dated 27.12.2022 demanding tax along with interest and penalty. Being aggrieved over the same, the petitioner entrusted M/s.Neethi Legal, legal consultant to file Appeal before the 1st respondent and thereafter the appeal was also filed. Since all the communications were sent to the email of the aforesaid consultant, the petitioner was not aware of the same and hence could not submit the documents sought for by the 1st respondent. As a result, the appeal was dismissed, confirming the order of the 2nd respondent. The petitioner came to know of the impugned order only after the receipt of the notice

dated 12.03.2025 from the 2nd respondent calling upon the petitioner to pay GST along with interest and penalty.

4. Further, he would submit that due to ill health of the petitioner's Managing Director, the petitioner entrusted the aforesaid consultant to file the Appeal and since all the communications were sent to the email I.D. of the consultant, without serving physical copy of the same to the petitioner and as the tax consultant also failed to inform about the said communications to the petitioner, the petitioner was unaware of the same. But, the 1st respondent has passed the impugned order dismissing the appeal filed by the petitioner, without hearing the petitioner and therefore he prays to set aside the same.

5. The learned counsel for the respondents would submit that though the petitioner was called for personal hearing on 20.03.2024, 08.02.2024 and 17.01.2024, the petitioner failed to appear before the 1st respondent to substantiate its case and hence based on the available documents, the 1st respondent dismissed the appeal. However, he

would submit that the impugned order may be set aside on terms.

6. Heard both sides. Perused the records.

7. A perusal of the impugned order itself shows that the petitioner has not appeared for personal hearing. If that be the case, the 1st respondent ought to have dismissed the appeal for non prosecution. But, the 1st respondent has passed the order on merits.

8. Be that as it may, it is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

9. In the case on hand, the impugned orders came to be passed without hearing the petitioner. 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 order dated 31.07.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the impugned order dated 31.07.2024 passed by the 1st respondent is set aside and the matter is remanded back to the 1st Respondent, subject to the payment of a sum of Rs.5,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of 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) Upon production of proof with regard to the payment of a sum of Rs.5,000/- as stated above, the 1st Respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.

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

28.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

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   (Appeals-II),
   Office of the Commissioner of GST & Central
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