IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.11954 & 11956 of 2025
and
W.M.P.Nos.13511, 13512, 13516 & 13517 of 2025

M/s.Kanishka Traders,
Rep by its Proprietor, Seetharaman Karthikeyani,
431/2, Palaniswamyu College Road,
Railway Line, Tirppur 641 602

... Petitioner in both petitions

Vs.

The Assistant Commissioner (ST)(FAC),
North-1 Circle, Tiruppur

... Respondent in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the proceedings vide Ref GSTIN 33BEZPK6260E1Z8/2018-19 & 33BEZPK6260E1Z8/2019-20 dated 26.10.2023 and quash the same as arbitrary, illegal and ultra vires and unconstitutional.

For Petitioner in both petitions	:	Mr.S.Mugesh
For Respondent in both petitions	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate

COMMON ORDER

These writ petitions have been filed challenging two impugned orders dated 26.03.2023 pertaining to Assessment Years 2019-19 & 2019-20 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent in both petitions. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the

impugned orders came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, these petitions have been filed.

4. He would also submit that the petitioner is willing to pay 25% of the disputed tax amount in each petition, less the amount already paid by the petitioner, i.e., a sum of Rs.4,00,000/-. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondents had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of remaining amount of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent 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 orders. Hence, this Court is of the view that the impugned orders were 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, less the amount already paid by the petitioner. In such view of the matter, this Court is inclined to set aside the impugned orders dated 26.10.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders both dated 26.10.2023 are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount, in each case, less the amount already paid by the petitioner, if any, 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.

8. With the above directions, these writ petitions are 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

The Assistant Commissioner (ST)(FAC),
North-1 Circle, Tiruppur

KRISHNAN RAMASAMY.J.,

nsa

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