IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.12626 of 2025
& W.M.P.No.14212 of 2025

RKM Overseas,
Rep by its Proprietor, Ruckmanidevi,
Place of Business at
No.794A, 4th Floor, Corporate Castle,
Verivada Road, R.S.Puram,
Coimbatore, Tamil Nadu 641 002
GST IN 33ACGPD934R1Z6

... Petitioner

Vs.

The Commercial Tax Officer (ST),
RS Puram Assessment Circle,
4th Floor, Commercial Taxes Department,
Dr.Balasundaram Road,
ATT Colony, Gopalapuram,
Pappanaickenpalayam, Coimbatore 641018

... 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 of the impugned order in Ref.No.ZD3312231749369

Commercial Tax Officer dated 22.12.2023 under Section 73 of TNGST Act, 2017, for the assessment period 2017-18 uploaded along with the summary of the orders in Form GST DRC 07, from the file of the respondent herein, quash the same and direct the respondent to pass fresh orders after providing an opportunity of being heard to the petitioner.

For Petitioner : Ms.J.Nikitha, for Mr.Bheru Singh

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 22.12.2023 passed by the respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader, takes notice on behalf of the 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 GST Registration was voluntarily surrendered by the petitioner and accordingly, it was canceled with effect from 31.12.2022. Thereafter, all

notices/communications, pertaining to the impugned proceedings, 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 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 10% 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 Special Government Pleader appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. That apart, since the notices were issued

subsequent to the cancellation of GST Registration of the petitioner, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and also perused the materials available on record.

7. In the case on hand, subsequent to the cancellation of GST Registration of the petitioner, the show cause notice was uploaded by the respondent in the GST portal, due to which, the petitioner was unable to file their reply. Further, 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. That apart, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 10% 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 22.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent, in each case, within a period of four weeks from today (09.04.2025) 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 petition is also closed.

09.04.2025

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

To

The Commercial Tax Officer (ST),
RS Puram Assessment Circle,
4th Floor, Commercial Taxes Department,
Dr.Balasundaram Road,
ATT Colony, Gopalapuram,
Pappanaickenpalayam, Coimbatore 641018

KRISHNAN RAMASAMY.J.,

nsa

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