IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12473 of 2025
AND
WMP NO. 14073 OF 2025,WMP NO. 14075 OF 2025

Ezhilarasan. G,
Proprietor,
Ayyanarapan Ginning Factory,
M/s.Ezhlarsan Gopalakrishnan,
4/173, Sundametur, Salem.

Petitioner(s)

Vs

The Deputy State Tax Officer - 1
Edappady Assessment Circle,
Edappady.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the respondent in GSTIN 33BHCPG8149N1Z2/2019-20 dated 17.08.2024 and to quash the same as without jurisdiction, invalid and illegal.

For Petitioner(s): Mr.Srikanth .V

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 17.08.2024, passed by the respondent for the Financial Year 2019-2020.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that in the present case, DRC-01 dated 25.05.2024 was issued to the petitioner, alleging the existence of discrepancy in the ITC claimed in GSTR 3B when compared with GSTR 2A, to the tune of Rs.1,90,408/-. After the receipt of the notice, the petitioner had submitted their objections vide letter dated 01.07.2024. However, the respondent passed the impugned assessment order dated 17.08.2024 demanding a sum of Rs.5,76,526/-. He would further submit that the respondent has passed the impugned assessment order dated 17.08.2024 beyond the scope of the show cause notice dated 25.05.2024 with non-application of mind and hence prayed to set aside the impugned order.

5.Learned Special Government Pleader appearing for the respondent would submit that in the present case, the calculations have been provided in the impugned order to show the demand arrived by them and therefore, the impugned assessment order has not been passed with non-application of mind. Whereas, the impugned order was passed confirming a sum of Rs.5,76,526/- beyond the scope of the show cause notice.

6.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent and perused the materials available on records.

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent, it is evident that the respondent issued the show cause notice proposing a demand of Rs.1,90,408/-, for which, the petitioner also filed their reply. However, while passing the impugned assessment order dated 17.08.2024, the respondent confirmed a demand of Rs.5,76,526/- which beyond the scope of the show cause notice dated 25.05.2024 and such order is not sustainable. If the respondent intend to raise the demand citing other materials which were not show caused to the petitioner, he/she supposed to have intimated the petitioner regarding the same and must have provided an opportunity to defend the case. No such opportunity was provided by the respondent before passing the impugned assessment order dated 17.08.2024. This violates the principles of natural justice by denying the party an opportunity to defend themselves against allegations not put forth in the notice.

8.For the reasons stated above, this Court is inclined to set aside the impugned order dated 17.08.2024 passed by the respondent with the following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The impugned assessment order dated 17.08.2024 shall be treated as show cause notice and the petitioner shall submit its reply/objection within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material.

(iii) On filing of such reply/objection by the petitioner within the stipulated period, the respondent shall consider the same and issue a 14 days clear notice by fixing the date for 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 closed.

15-04-2025

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

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To

The Deputy State Tax Officer 1
Edappaddy Assessment Circle,
Edappady.

KRISHNAN RAMASAMY J.

rst

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