IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.12025 of 2025
& W.M.P.Nos.13602 & 13603 of 2025

Tvl.Vijayalakshmi Store,
Rep by its Proprietor, Mr.Ramesh Kumar,
No.1/36, Sirumangalam,
Kallakurichi, Villupuram,
Tamil Nadu 606 204
GSTIN 33BKDPR0825A1ZR

... Petitioner

Vs.

The Deputy State Tax Officer-2,
Office of the Deputy Commercial Tax Officer,
No.33/1, Nepal Street,
Kallakurichi, Tamil Nadu

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent herein in its impugned order passed by the respondent in GSTIN 33BKDPR0825A1ZR/ 2019-20 dated 23.07.2024 along with the

Form DRC-07 bearing Ref.No.ZD3307242725763 dated 23.07.2024 for the period 2019-20 and quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 23.07.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, 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 appearing for the petitioner would submit that in the present case, the notice in Form GST DRC-01 and other two reminder notices were issued by the respondents on 17.07.2023, 07.11.2023 & 01.07.2024 respectively. Thereafter, the reply was filed by

the petitioner on 02.07.2024. However, the impugned assessment order was passed by the respondent on 23.07.2024, wherein it has been stated that no reply was filed by the petitioner. Hence, he would contend that the reply filed by the petitioner was not at all considered by the respondent while passing the impugned order. Further, he would submit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order, which is a clear violation or principles of natural justice. Hence, this writ petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% 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 Government Advocate appearing for the respondent would fairly submit that in this case, though the reply was filed by the petitioner, the same was not at all considered by the respondent while passing the impugned assessment order. 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.

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 it is clear that though the reply was filed by the petitioner, the same was not considered by the Assessing Officer while passing the impugned assessment order. Further, 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 and 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 to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 23.07.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 23.07.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount 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.

9. With the above directions, this writ petition is 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 Deputy State Tax Officer-2,
Office of the Deputy Commercial Tax Officer,
No.33/1, Nepal Street,
Kallakurichi, Tamil Nadu

KRISHNAN RAMASAMY.J.,

nsa

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