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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13787 of 2025
and
W.M.P.Nos.15489 & 15490 of 2025

Tvl. Excel Bio Science,
rep. By its Managing Partner
B.Parthasarathy. ...Petitioner

Vs.

The Deputy State Tax Officer -2
Amindakarai Assessment Circle, Chennai. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the respondent in GSTIN : 33AABFE8298B2ZJ/2019-20 dated 28.08.2024 and to quash the same and consequently, to direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.R.Kumar

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

<u>Order</u>

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Heard Mr.P.R.Kumar learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 28.08.2024 and to quash the same and consequently, to direct the respondent to give an opportunity of personal hearing.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been issued with a show cause notice, to which, the petitioner filed a detailed reply, but, the respondent, without considering the reply filed by the petitioner in a proper manner and without providing an opportunity of personal hearing, straightaway passed the impugned order, confirming the proposals contained in the show cause notice. Therefore, the learned counsel submits that the impugned order suffers from violation of principles of natural justice, however, he fairly submitted that, in the event, this Court is inclined to set aside the impugned order, the petitioner is ready

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and willing to deposit 25% of the disputed tax and hence, prays for setting aside the impugned order and remanding the matter back to the respondent for fresh consideration.

4. The learned Government Advocate (T) for the respondents fairly submitted that since the petitioner has come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, there is no dispute on the aspect that, after the filing of reply by the petitioner, the respondent has not granted any opportunity of personal hearing to the petitioner, but has straight away proceeded to confirm the proposals contained in the show cause notice. Therefore, as rightly pointed out by the learned counsel for the petitioner, the impugned order suffers from violation of principles of natural justice and against the provisions of Section 75 (4) of the TNGST Act, inasmuch as, in terms of Section 75 (4) an opportunity of hearing ought tp be granted, where

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any adverse decision is contemplated against taxpayer (petitioner in this case). Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 28.08.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of three weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and

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shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer -2
Amindakarai Assessment Circle, Chennai.

Krishnan Ramasamy,J.,

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