IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15382 of 2025
and
W.M.P.Nos.17397 & 17399 of 2025

Tvl. Sri Ramajayam Textiles
rep. By its Proprietor,
7/73, Tholasampatti Village,
Tholasampatti Post,
Salem – 636 503. ...Petitioner

Vs.

1. The Commercial Tax Officer
Omalur, Salem II, Salem.

2. The State Tax Officer (ST)
Omalur Assessment Circle,
2/1, 15th Ward,
Periyamariamman Kovil Backside,
Visvam Building Bazaar Street,
Omalur – 636 455. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the order in Ref.No.ZD330424233479C dated 29.04.2024 read with annexure in 33BLSPR1472D1ZZ/2018-19 dated 24.04.2024 passed by the respondent and to quash the same as arbitrary.

For Petitioner : M/s.R.Sri Visvapriya
For Respondents : Ms..Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard M/s.R.Sri Visvapriya, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) who takes notice on behalf of the respondents. 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 respondents dated 29.04.2024 read with annexure dated 24.04.2024 and to quash the same.

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 reply seeking 10 days time to file an effective reply, and subsequently, filed the reply, but, the respondent, instead of providing an opportunity of personal hearing, subsequent to the filing of the reply, 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 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 respondents for fresh consideration.

4. The learned Government Advocate (T) for the respondents fairly submitted that no personal hearing opportunity was granted to the petitioner subsequent to the reply filed by the petitioner and before passing the impugned order, however, 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, it is seen that after the filing of reply by the petitioner, the respondents have straightaway proceeded to confirm the proposals contained in the show cause notice, without even affording an opportunity of personal hearing to the petitioner.

6.2 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 to have been granted, where 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 dated 29.04.2024 along with annexure dated 24.04.2024 passed by the respondents are set aside.

ii) Consequently, the matter is remanded to the respondents 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 two 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 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.

29.04.2025

sd

To

1. The Commercial Tax Officer
   Omalur, Salem II, Salem.

2. The State Tax Officer (ST)
   Omalur Assessment Circle,
   2/1, 15th Ward,
   Periyamariamman Kovil Backside,
   Visvam Building Bazaar Street,
   Omalur – 636 455.

Krishnan Ramasamy,J.,

sd

W.P.No.15382 of 2025

29.04.2025