IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P.No.13235 of 2025
and W.M.P.Nos.14801 & 14803 of 2025

M/s.General Engineering and Services,
Represented by its Proprietor,
Mr. Edwin Thayananantham,
No.3/19 Erneswaran Koil Street,
Chennai 57.

Petitioner(s)

Vs

The Assistant Commissioner (ST),
Manali Assessment circle,
Chennai 03.

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 file of the respondent and to quash the impugned assessment order dated 24.04.2024 bearing No.33AAGPE0990H1ZZ/2018-19 passed by the respondent.

For Petitioner(s): Mr.J Ashish

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

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the file of the respondent and to quash the impugned assessment order dated 24.04.2024 bearing No.33AAGPE0990H1ZZ/2018-19 passed by the respondent.

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 appearing for the petitioner would submit that, the petitioner is engaged in the business of switch and switch gears. The respondent issued the detailed show cause notice dated 27.12.2023, along with the FORM

DRC-01, citing two discrepancies and the same was uploaded in the GST portal under a "view additional notices tab". Thereafter, reminder also uploaded in the GST portal by the respondent. Meanwhile, the petitioner's auditor was removed from service and the newly appointed auditor was not familier with the notices that have been uploaded the "view additional notices tab". Therefore, they could not give a detailed reply promtly. On 04.04.2024, the petitioner filed their first reply and thereafter on 24.04.2024, the petitioner filed another reply along with relevant documents. However, on the very same day, the impugned assessment order came to be passed by the respondent, without providing any personal hearing opportunity. Hence, he prayed to set aside the impugned order directing the respondent to provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Special Government Pleader appearing for the respondent would fairly submit that after filing the reply, the petitioner was not provided with personal hearing opportunity. He would further submit that the ptitioner has approached this Court after a period of one year from the date of impugned order being passed. Therefore, the petitioner may be directed to deposit 25% of the disputed tax demand in respect of the impugned assessment period and the matter may be remanded back for fresh consideration.

6.In reply, learned counsel for the petitioner would submit that the petitioner is ready to deposit 25% of the disputed tax demand, in respect of the impugned assessment period.

7.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the repondent and perused the materials available on record.

8.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 though the reply has been filed by the petitioner, without taking into consideration of the reply filed by the petitioner and without providing an opportunity of personal hearing, the assessment order has been passed, which is totally against the provision under Section 75(4) of the Central Goods and Services Tax Act, 2017.

9.Thus, in such circumstances, this Court is of the view that the assessment order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

10.For the reasons stated above, this Court is inclined to set aside the impugned order dated 24.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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.

(iv) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

11.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

09-04-2025
(2/2)

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

To:-

The Assistant Commissioner (ST),
Manali Assessment circle,
Chennai 03.

KRISHNAN RAMASAMY J.

rst

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