IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16541 of 2025
and
W.M.P.Nos.18696 & 18698 of 2025

TVL.BISIMI ENTERPRISERS
Rep by its Proprietor Mr.M.Abdul Rahman,
Office No.36, Sandhaiappan 1st Street,
Chennai- 600 012. ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
The Office of Assistant Commissioner (St)
Choolai:North III- Chennai North,
Chennai- 600 006. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in connection with the order passed by the respondent in GSTIN/ID:33BGFPA6161C1Z2 2019-2020 in Reference No.ZD33082452115L dated 28/08/2024 and quash the same as illegal and improper.

For Petitioner : Mr.S.Sabarish

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

Order

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), 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 dated 28.08.2024 passed by the respondent for the AY 2019-20 and to quash the same as arbitrary and illegal.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 22.05.2024, for which the petitioner filed its reply on 01.08.2024 and 22.08.2024. Thereafter, the respondent without providing an opportunity of personal hearing passed the impugned order. Therefore, the impugned order suffers from violation of principles of natural justice and is liable to be aside.

4. The learned Additional Government Pleader (Taxes) for the respondent submitted that the impugned order was passed only after considering the reply filed by the petitioner. However, he fairly submitted that no personal hearing was provided to the petitioner before passing impugned order.

5. Heard both sides. Perused the records.

6. A perusal of the records would go to show that no opportunity of personal hearing was provided to the petitioner before passing impugned order. Therefore, Section 75(4) of the TNGST Act, 2017 has not been complied with by the respondent. That apart, it is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal healring to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

7. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside. Accordingly, this Court passes the following order:

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

iv) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.06.2025

Index : yes/no
Neutral Citation : yes/no

To

The Deputy Commercial Tax Officer,
The Office of Assistant Commissioner (St)
Choolai:North III- Chennai North,
Chennai- 600 006.

Krishnan Ramasamy,J.,

arr

W.P.No.16541 of 2025

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