IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13688 of 2025
and
W.M.P.Nos.15375 & 15378 of 2025

M/S.City Office Equipments
Represented by its Proprietor
Mr. Pawan Kumar Jhunjhunwala
20/47 Aziz Mulk Third Street
Thousand Lights Chennai-600 006 ...Petitioner

Vs.

THE DEPUTY COMMERCIAL TAX OFFICER
NUNGAMBAKKAM CENTRAL III
CHENNAI CENTRAL TAMIL NADU
NO.88 MAYOR RAMANATHAN SALAI
CHETPET CHENNAI-600 031. ...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 records from the file of the Respondent in respect of the Order passed in Ref No.ZD330824193666W dated 22.08.2024 u/s 73 of the Act for the F.Y. 2019-20 with Summary of the order in Form GST DRC-07 and consequent Order of Rejection of Application for Rectification in Ref No.ZD3303250253750 dated 05.03.2025 and quash the same.

For Petitioner : Mr.P.Aruna Chopda

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

Order

Heard Mr.P.Aruna Chopda learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 22.08.2024 u/s 73 of the Act for the F.Y. 2019-20 with Summary of the order in Form GST DRC-07 and consequent Order of Rejection of Application for Rectification dated 05.03.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent issued Form GST DRC-01 dated 03.08.2024, however, the petitioner failed to respond to such notice, as the petitioner was under the bona fide belief that the Consultant engaged by him would file reply, but, the Consultant due to inadvertence failed to file objections; that however, the respondent, without providing an opportunity of hearing to the petitioner, passed the ex parte impugned order; that aggrieved by the said impugned order, the petitioner filed a Petition seeking for Rectification of the same, however, the said Rectification Petition came to be rejected, and therefore, the petitioner is before this Court by way of present Writ Petition challenging the order dated 22.08.2024 and other consequential proceedings and the Rejection Order passed in the Rectification Petition dated 05.03.2025. The learned counsel 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 thus, prays for appropriate orders.

4. The learned Additional Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily 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 the respondent has issued a show cause notice, but the petitioner's Accountant inadvertently failed to file reply. However, the respondent proceeded to confirm the proposals contained in the show cause notice and passed the impugned order without affording an opportunity of personal hearing to the petitioner, which fact, was in fact, recorded by the respondent in the impugned order, stating that "the petitioner failed to file reply nor appeared for the personal hearing"

6.1 Therefore, this Court is of the view that the impugned order passed by the respondent is nothing but an ex parte as the same suffers from the violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order. 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, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent 22.08.2024 with Summary of the order in Form GST DRC-07 and consequential order of Rejection of Application for Rectification dated 05.03.2025 are 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 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.

and

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.

17.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

THE DEPUTY COMMERCIAL TAX OFFICER
NUNGAMBAKKAM CENTRAL III
CHENNAI CENTRAL TAMIL NADU
NO.88 MAYOR RAMANATHAN SALAI
CHETPET CHENNAI-600 031.

Krishnan Ramasamy,J.,

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