IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : **24.04.2025**
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14555 of 2025
and
W.M.P.Nos.16444 & 16445 of 2025

M/s PIRAVEENA TEX
Rep by its Proprietor K Suresh
3-4/1 Senkadu Valayakaranoor
Komarapalayam, Namakkal -638183. ...Petitioner

Vs

The Deputy State Tax Officer-1
Office of the Deputy Commercial Tax officer
Kumarapalayam Assessment Circle
Namakkal District. ...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 of the impugned proceedings of the respondent herein in GSTIN/33DJSPS3704M1ZM/2017-2018 dated 13.12.2023 along with its consequential Summary-Order in Ref.No.ZD3312230886948 dated 13.12.2023 for the Tax Period July 2017-March 2018 and quash the same

For Petitioner : Mr.S.Rajasekar
For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.S.Rajasekar learned counsel appearing for the petitioner and Ms.P.Selvi, 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 13.12.2023 along with its consequential Summary-Order in dated 13.12.2023 for the Tax Period July 2017-March 2018 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that the respondent issued a show cause notice in Form DRC-01 dated 29.09.2023 ; that the petitioner responded to the above show cause notice vide its reply dated 27.11.2023, uploaded via. DRC-06 on 02.12.2023, but the respondent passed the impugned assessment order, without even affording an opportunity of personal hearing. The learned counsel further contended that though in the impugned order, a reference to Circular No.183

of 2022 dated 27.12.2022 was made by the respondent, the grievance of the petitioner is that had the respondent had provided an opportunity of personal hearing, the petitioner would have sought time for production of documents as mandatory in terms of the said Circular or would have explained the respondent that the mechanism to find discrepancies that had incurred between Form GSTR-3B and GSTR-2A was not available during the subject period. The learned counsel, therefore, contended that the impugned order suffers from violation of principles of natural justice and against the provisions of Section 75 (4) of the CGST Act,2017.

4. The learned Government Advocate for the respondent fairly admitted that subsequent to the submission of reply by the petitioner, no personal hearing opportunity was provided to the petitioner and therefore, submits that in the event, this Court is inclined to set aside the impugned order and remand the matter back for fresh consideration, the same would be complied with.

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

6. In the present case, it is seen that the respondent issued a show cause notice in Form DRC-01 dated 29.09.2023 pointing out discrepancies in GSTR-3B and GSTR-2A filed by the petitioner during the subject period. The petitioner, on receipt of the show cause notice filed a reply vide DRC-06 dated 02.12.2023. Thereafter, in the normal course, what the respondent ought to have done, is to issue a notice of personal hearing by fixing a particular date and time. However, in the present case, the respondent, without doing so, straightaway proceeded to confirm the proposals contained in the show cause notice by extensively referring to a Circular No.183 dated 27.12.2022 issued by the respondent-Board, which mandates the petitioner to produce certain certificates.

6.1 It is the grievance of the petitioner that had the respondent provided an opportunity of personal hearing to the petitioner, at least, the petitioner, during the course of such hearing, would have sought time for obtaining the certificates as mandatory under the said Circular or would have explained the respondent to take into consideration of the law that prevailed during the subject period, which does not require the petitioner to produce such certificate, since, according to the petitioner, the mechanism to find such discrepancies that had incurred between Form-GSTR-3B and GSTR-2A was not available during the subject period. In either case, the petitioner would have made a fervent plea, convincing the respondent, which would not have resulted in the impugned order. However, since the respondent failed to afford such opportunity of hearing, the petitioner has now been imposed with tax/interest/penalty.

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 CNGST Act, inasmuch as, in terms of Section 75 (4) an opportunity of hearing ought to be granted, where any adverse decision is contemplated against taxpayer (petitioner in this case). Therefore, this Court is inclined to set aside the impugned order.

6.3 Accordingly, this Court is inclined to pass the following order/direction:-

i) The impugned order passed by the respondent dated 13.12.2023 along with its consequential Summary-Order dated 13.12.2023 for the Tax Period July 2017-March 2018 are set aside.

ii) Consequently, the matter is remanded back to the respondent for fresh consideration, in which case, the respondent is directed to issue a 14 clear date notice affording an opportunity of personal hearing to the petitioner and thereafter, shall decide the issue 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.

24.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer-1
Office of the Deputy Commercial Tax officer
Kumarapalayam Assessment Circle
Namakkal District.

Krishnan Ramasamy,J.,

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W.P.No.14555 of 2025

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