IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 14376 of 2025
AND
WMP NO. 16214 OF 2025

1. Kamalam
2. Dharani
3. Sharmila

The petitioners are the legal heirs of
Late S.Chandran (Proprietor),
Representing Sri Angalaparameshwari
Hardwares,
Residing at
1/5/5E1, Dispensary Road,
Sankagiri, Salem 636 104.

Petitioner(s)

Vs

Assistant Commissioner ST
Sankari Circle RDO Office Compound,
Tiruchengode Road, Sankari 637 301.

Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN/33AESPC7737C1ZK/2019-20 dated 05-12-2024 and quash the same and issue any other writ or pass.

For Petitioner(s): Ms.A.Divya

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

ORDER

The present Writ Petition is filed challenging the order dated 05.12.2024 passed by the respondent, relating to the assessment year 2019-20.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax), takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for final disposal at the time of admission stage.

3. The learned counsel for the petitioners submitted that the business of Tvl.Sri Angalaparameshwari Hardwares was carried on by Late Mr.S.Chandran and was registered under the Goods and Service Tax Act, 2017. After the demise of the proprietor Mr.S.Chandran, the business was handled by his legal heirs,

the petitioners herein and the legal heirs of the proprietor faced difficulties in continuing with the business. Therefore, the petitioners made an application for cancellation of GST Registration and the registration was cancelled on 06.01.2022. Pursuant thereto, the respondent issued an intimation notice dated 11.05.2022 followed by a show cause notice in Form DRC-01 dated 16.06.2023 to the petitioners through GST common portal. The petitioners submitted their reply on 08.04.2024, enunciating the reconciliation statement and the status of the registered person. Upon considering the reply filed by the petitioners, the respondent passed the impugned order dated 05.12.2024 against the deceased person. Further, he submitted that no opportunity of personal hearing was granted to the petitioners prior to the passing of the present impugned order dated 05.12.2024. He also referred to Section 75(4) of the Act and contended that if the respondent initiates proceedings to confirm the demand contained in the show cause notice, the respondent is supposed to provide an opportunity of personal hearing to the petitioners. However, in the present case, no personal opportunity was provided to the petitioners to substantiate their claims, and thus, the impugned order, suffers from violation of principles of natural justice.

Hence, he prayed for appropriate directions from this Court.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader appearing for the respondent submitted that two reminder notices dated 18.03.2024 and 26.03.2024 were issued to the petitioners mentioning the date for personal hearing. Further, he fairly submitted that the petitioners have filed their reply on 08.04.2024 and after filing the reply of the said show cause notice, no personal hearing was provided to the petitioners, but the reply was considered by the respondent.

5. Heard both sides and perused the materials available on record.

6. Considering the submissions made by the learned counsel on either side, it appears that the petitioners have filed their reply on 08.04.2024 to the said show cause notice. Further, the personal hearing was provided to the petitioners prior to the filing of the reply. No personal hearing was provided to the petitioners subsequent to the filing of the reply dated 08.04.2024. As rightly

contented by the learned counsel for the petitioners, as per Section 75(4) of the Act, personal hearing opportunity ought to be provided to the petitioners, in the event, the respondent initiates proceedings. In the present case, no such opportunity was provided to the petitioners, which is in clear violation of principles of natural justice and also contrary to provisions of Section 75(4) of the Act.

7. In view of the above, this Court issues the following orders/directions:

(i) The impugned order dated 05.12.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The respondent shall provide an opportunity of personal hearing to the petitioners by issuing 14 days clear notice to them and thereafter, pass appropriate orders on merits and in accordance with law, after hearing them, as expeditiously as possible.

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

23-04-2025

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

To
Assistant Commissioner ST
Sankari Circle RDO Office Compound,
Tiruchengode Road, Sankari 637 301.

KRISHNAN RAMASAMY J.

jd

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