IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14995 of 2025
& W.M.P.Nos.16890 & 16893 of 2025

Tvl.SAS Hotels and Enterprises Ltd.,
By its Director of Finance, S.Prabhakaran,
No.49, G.N.Chetty Road, T.Nagar,
Chennai, Tamil Nadu 600 017

... Petitioner

Vs.

Assistant Commissioner ST,
Pondy Bazaar Assessment Circle,
No.46, Mylapore Taluk Office,
Greenways Road, Chennai

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent herein in impugned order passed in GSTIN 33AAECS1194 C2ZP/2019-20 dated 31.08.2024 and consequential Form GST Apl-02 dated 29.03.2025 issued by the 2nd respondent rejecting the appeal filed by the petitioner on 25.02.2025 and quash the same.

For Petitioner : Ms.G.Vardini Karthik

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

ORDER

This writ petition has been filed challenging the impugned assessment order dated 31.08.2024 and the impugned rejection order dated 29.03.2025 passed by the respondents.

2. Mr.C.Harsha Raj, learned Special Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, initially, the show cause notice dated 24.05.2024 was issued by the 1st respondent, for which, a reply dated 03.08.2024 has been filed by the petitioner. Thereafter, without providing any opportunity of personal hearing, a non-speaking assessment order came to be passed on 31.08.2024. Aggrieved over the said assessment order, an appeal was

preferred by the petitioner on 25.02.2025, however, the same was rejected by the 2nd respondent, on the aspect of limitation, vide impugned order dated 29.03.2025.

5. Further, he would submit that the petitioner has already paid 10% of the disputed tax amount towards the statutory pre-deposit while filing the appeal and now, he is willing to pay remaining 15% of the disputed tax amount to the respondents. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

6. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, he requested this Court to remit the matters back to the respondent, subject to the payment of remaining 15% of the disputed tax amount by the petitioner.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and also perused the materials available on record.

8. In the case on hand, it is evident that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Normally, if the respondents are intend to pass an adverse order against an Assessee, it is mandatory for them to provide sufficient opportunity to the Assessee prior to the passing of assessment order. However, in this case, no such opportunity was provided prior to the passing of impugned order. In such view of the matter, it is clear that the impugned order is not only in contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice.

9. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of the disputed tax amount towards the statutory pre-deposit while filing the appeal and now,

he is willing to pay remaining 15% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to quash the rejection order dated 29.03.2025 and set aside the assessment order dated 31.08.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned rejection order dated 29.03.2025 is quashed.

(ii) The impugned assessment order dated 31.08.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay remaining 15% of disputed tax amount to the respondents within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iv) On filing of such reply/objection by the petitioner, the 1st 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.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

25.04.2025

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

To

Assistant Commissioner ST,
Pondy Bazaar Assessment Circle,
No.46, Mylapore Taluk Office,
Greenways Road, Chennai

KRISHNAN RAMASAMY.J.,

nsa

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