IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15812 of 2025
and
W.M.P.Nos.17884 and 17886 of 2025

M/s.C.R.Kumaresan ...Petitioner

Vs.

1.State Tax Officer,
Salem Rural Assessment Circle
Department of Commercial Taxes
Pitchards Road, Hasthampatty,
Salem-636 007.

2. State Tax Officer (FAC)
Department of Commercial Taxes
Pitchards Road, Hasthampatty,
Salem-636007. ...Respondents

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 of the 1st respondent in GSTIN:33APJPK4060Q1ZJ/2019-2020 dated 23.08.2024 and the consequential DRC 07 in Ref.No.ZD330824216181Q dated 23.08.2024 passed by the 1st Respondent for the year 2019-20 and quash the same.

For Petitioner : Mr.V.Aruchalesh

For Respondent : Ms.K.Vasanthamala
Government Advocate (Taxes)

ORDER

Ms.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents. 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 23.08.2024 passed by the respondent for the AY 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the 2nd respondent issued a show cause notice in Form DRC 01 on 24.05.2024, for which the petitioner vide reply dated 28.06.2024, uploaded the Electronic Liability Ledger. Subsequently, in the absence of proper reply, the 1st respondent passed the impugned order dated 23.08.2024. The learned counsel further submitted that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (Taxes) 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. Heard both sides. Perused the records.

6. In the present case, the petitioner contends that the petitioner vide reply dated 28.06.2024 has uploaded the Electronic Liability Ledger, but the respondent in the absence of proper reply passed the impugned order. 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 hearing 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:

8. In such view of the matter, this Court is inclined to set aside the the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the 1st respondent dated 23.08.2024 is set aside.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had 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.

v) 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.

30.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Department of Commercial Taxes
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Krishnan Ramasamy,J.,

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