IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **28.04.2025**

CORAM :

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Writ Petition No.15133 of 2025
and W.M.P.Nos.17045 & 17046 of 2025

Jakam Sekar Ranjith
Proprietor,
M/s.Sekar Textiles,
1/226, Hosur Road,
Rayakottai,
Krishnagiri. ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Hosur (South) III assessment circle,
Hosur. … Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records on the file of the respondent in GSTIN:33AVNPR5519FF1ZD/2020-21 dated 27.02.2025, and quash the same as invalid and illegal.

For Petitioner : Mr.Srikanth.V

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate (Tax)

ORDER

Challenging the order dated 27.02.2025 passed by the respondent relating to the assessment year 2020-21, the petitioner had filed the present writ petition.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Tax) takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that in respect of the assessment year 2020-21, the petitioner made sales at Rs.1,66,30,418/-. However, the purchaser made outward supply to an extent of Rs.1,21,01,218/- and there was a difference in the turnover to an extent of Rs.45,29,200/-. He further submitted that the petitioner kept some stocks for the purpose of catering the needs of the purchaser. There is a practice that the purchaser will

come on later point of time to purchase and the same would follow in the entries. In this regard, the petitioner had submitted its reply for the aforesaid alleged difference. However, the reply was not accepted by the respondent on the ground that along with the reply, the petitioner has not produced any documentary evidence.

4. He further submitted that no opportunity of personal hearing was provided to the petitioner before passing the impugned order. If the respondent provided personal hearing, the petitioner would have explained the aforesaid difference. Without doing so, the impugned order came to be passed by the respondent, which is in violation of principles of natural justice. It is also submitted that the petitioner is ready and willing to deposit 10% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to produce all the documentary evidence and thereafter reasonable order can be passed.

5. Mr.V.Prashanth Kiran, learned Government Advocate (Tax) appearing for the respondent submitted that against the impugned order, the petitioner has remedy to file an appeal before the appellate authority and the time for filing an appeal has not expired. Hence, the petitioner can very well approach the Appellate Authority. He further submitted that in the event, this Court is inclined to remand the matter, the same may be considered subject to the payment of 10% of the disputed tax.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the present case, the order dated 27.02.2025 is not an ex-parte order. The respondent allowed the petitioner to file a reply and the petitioner had also submitted its replies on 07.03.2024 and 29.07.2024. In the reply, the petitioner had stated that the reason for holding the stocks is to cater the needs

of the buyers to approach the petitioner in emergency. As rightly contended by the petitioner, if the respondent would have provided the opportunity of personal hearing, the petitioner would have satisfied the respondent. On the contrary, in the present case, the respondent has not provided any personal hearing, which is in violation of principles of natural justice.

8. This Court is of the view that the Officer concerned always has to apply his mind while passing the order and non-providing the opportunity before passing the order is a waste exercise. That apart, while passing the assessment order, the Officer has to very conscious on the order to check whether notice has been sent and service has been completed and also provided opportunity to the taxpayer to establish their case. The Officer has to clearly record the reasons in the order. Further, when the taxpayer sought repeated adjournments, in those situation, the Officer can consider giving more time and also record the same in the order. Further, without providing the time, the Officer passing the order and challenging the same, the taxpayer

approaching the Court of law stating that no opportunity was granted and therefore the order is in violation of principles of natural justice. As stated supra, it is the waste exercise of the Officer and based on the order of this Court, if any, the Officer again have to redo the entire exercise in similar way. In several occasion, this Court noticed that after accepting the reply, the Officer has simply recorded that the reply was not accepted and also recorded that documentary evidence was not produced by the taxpayer. The Officer should have to explicitly mention what are the documents required and a demand has to be made by the Officer for production of documents from the taxpayer at the time of personal hearing. Thus, often, this Court noticed that without disclosing those things, the Officer is passing the order violating the principles of natural justice, which would not only vitiates the entire process, but also the loss for the exchequer.

9. In the present case, as stated supra, no opportunity of personal hearing was provided to the petitioner before passing the impugned order.

Further, taking into consideration the undertaking given by the petitioner, this Court is inclined to set aside the impugned order on the ground of violation of principles of natural justice.

10. In the result, the impugned order dated 27.02.2025 is set aside and the matter is remanded to the Authority concerned for fresh consideration, subject to the payment of 10% of the disputed tax, within a period of two weeks from the date of receipt of a copy of this order. On such payment made, the petitioner shall file its additional reply along with documentary evidence, within a period of two weeks thereafter. Upon such reply filed by the petitioner, the respondent is directed to consider the same 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.

11. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.04.2025

jd

Index	:	Yes/No
Speaking Order	:	Yes/No
Neutral Citation	:	Yes/No
Internet	:	Yes

To:

The Assistant Commissioner (ST) (FAC),
Hosur (South) III assessment circle,
Hosur.

W.P No.15133 of 2025

Krishnan Ramasamy J.

Today, this matter is listed under the caption "For being mentioned".

2. It is brought to the notice of this Court that there is a typographical error in mentioning the "GSTIN number" as "33AVNPR5519FF1ZD/2020-21" instead of "33AVNPR5519F1ZD/2020-21" in prayer of the order dated 28.04.2025 passed by this Court in the main Writ Petition.

3. This Court having verified the same from the records and convinced that there is typographical error in mentioning the "GSTIN number".

4. In the light of the above, the "GSTIN:33AVNPR5519FF1ZD/2020-21" mentioned in prayer of the order dated 28.04.2025 in the present Writ Petition shall stands substituted with "GSTIN:33AVNPR5519F1ZD/2020-

21". Except the same, all other aspects shall remain intact.

5. Registry is directed to make necessary correction and issue a fresh order copy in the main writ petition at the earliest.

23.06.2025

jd

Krishnan Ramasamy J.,

jd

W.P No.15133 of 2025

23.06.2025

KRISHNAN RAMASAMY, J.

jd

W.P.No.15133 of 2025

28.04.2025