IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.17059 of 2025
& W.M.P.Nos.19356 & 19357 of 2025

M/s. Valkan Engineering An Aadhmin
Alliance Private Ltd
Represented By Its Director, Mr. V. Nivas,
No.5 45th Street, Saidapet, Chennai - 600 061.

... Petitioner

Vs.

The Deputy State Tax Officer (st)(fac)
Nanganallur Assessment Circle, Government
Farm Village, Nandanam, Chennai - 600 035.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the connected records pertaining to the impugned proceedings of the Respondent herein made in GSTIN/33AAFCV7542L1ZZ/2020-21, dated 21/02/2025 and quash the same

For Petitioner : Mr.Manoharan S Sundaram

For Respondent : Ms.Amirta Poonkodi Dinakaran, GA

ORDER

This writ petition has been filed challenging the impugned order dated 21.02.2025 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent. 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, all notices/communications were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Thereafter, the notice for personal hearing was issued to the petitioner vide email. Upon receipt of the said notice, the petitioner sought for time to file their reply. However, without granting any such time, the impugned order came to be passed by the respondent. He would also contend that no opportunity of personal hearing was provided to the petitioner prior to the passing of the said

impugned order. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner has already paid 10% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent 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 order. That apart, since the petition has been filed within the limitation, he requested this Court to remit the matter back to the respondent.

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

7. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. Thereafter, a notice for personal hearing was provided to the petitioner vide email on 12.02.2025. Subsequently, on 17.02.2025, the petitioner sought for further time to file their reply. However, without granting any such extension of time, the impugned order came to be passed by the respondent on 21.02.2025.

8. Further, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. 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. That apart, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 21.02.2025 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 21.02.2025 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) 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.

(iii) On filing of such reply/objection by the petitioner, the 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.

04.06.2025

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

To

The Deputy State Tax Officer (st)(fac)
Nanganallur Assessment Circle, Government
Farm Village, Nandanam, Chennai - 600 035.

KRISHNAN RAMASAMY.J.,

nsa

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