IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.18607 of 2025
& W.M.P.Nos.20860 & 20861 of 2025

Tvl Kovai Aircon
Rep By Its Proprietor,Mr.Jeetmal Kankaria
No.13/2, 8th Street, 100 Ft. Road,
Gandhipuram, Coimbatore 641012

... Petitioner

Vs.

The Deputy State Tax Officer-1
Gandhipuram Assessment Circle,Coimbatore.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for Respondent Order dated 29.04.2024 with Ref. No. ZD330124084281S and the subsequent Rectification Order dated 28.10.2024 with Ref. No.GSTIN.33AFAPK5 693J1ZA/20I8- 19 and quash the same

For Petitioner : Mr.J.Adithya Reddy

For Respondent : Mr.T.N.C.Kaushik, AGP

ORDER

This writ petition has been filed challenging the impugned assessment order dated 29.04.2024 and the impugned rejection order dated 28.10.2024 passed by the respondents.

2. Mr.T.N.C.Kaushik, learned Additional 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 19.01.2024 was issued by the respondent, for which, the replies dated 20.01.2024, 30.01.2024 & 25.03.2024 has been filed by the petitioner. Thereafter, without providing any opportunity of personal hearing, the impugned assessment order came to be passed on 29.04.2024. Aggrieved over the said assessment order, a rectification application was preferred by the petitioner, however, the same was rejected by the respondent vide impugned rejection order dated 28.10.2024.

4. Further, he had referred to the provisions of Section 75(4) of the GST Act, 2017 and would submit that when the respondent is intend to pass an adverse order, they should have provided sufficient opportunity to the petitioner. However, in this case, no such opportunity was provided and thus, it is clear that the impugned order came to be passed not only in contrary to the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice and hence, he requests this Court to set aside the said impugned order.

5. On the other hand, the learned Additional 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.

7. Heard the learned counsel for the petitioner and the learned Additional 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. In such view of the matter, this Court is inclined to set aside the assessment order dated 29.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned assessment order dated 29.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(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.

04.06.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Deputy State Tax Officer-1
Gandhipuram Assessment Circle,Coimbatore.

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