IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.17192 of 2025
& W.M.P.Nos.19482 & 19484 of 2025

Shanath Babu
(Trade Name.G.S. Engineering)
Represented by its Proprietor,
28, G.S.Engineering,
10th street, Jothi nagar, Thiruvottiyur,
Chennai, Tamil Nadu - 600019

... Petitioner

Vs.

Assistant Commissioner
Tiruvottiyur- Avadi- Tiruvallur,
Tamil nadu.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of Order of Assessment in DRC- 07 bearing Reference No.ZD330424152066P in GSTIN /ID 33ABGPS4374L1Z8/APR 2018-MAR 2019 dated 20.4.2024 passed by the respondent and to quash the same and to further direct the respondent to issue fresh order of assessment after considering the documents submitted by the petitioner

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Ms.K.Vasanthamala, GA

ORDER

This writ petition has been filed challenging the impugned order dated 20.04.2024 passed by the respondent.

2. Ms.K.Vasanthamala, 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, show cause notice was issued by the respondent on 26.12.2023, for which, the reply was filed by the petitioner on 04.04.2024. On the very same day, a notice for personal hearing was issued to the petitioner, wherein, the petitioner was directed to appear before the respondent for producing the additional documents, if any. Pursuant to the said notice, the petitioner has appeared before the respondent. However, without

providing any further time for filing additional documents, the respondent has passed the impugned order, which is violation of principles of natural justice.

4. Further, he would submit that one of the issues involved in this case is with regard to Section 16(4) of GST Act. The said issue was already dealt by this Court vide order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, wherein, the provisions of Section 16(4) was struck down. However, without considering the same, the impugned order came to be passed by the respondent based on the provisions of Section 16(4), which is contrary to the law laid down by this Court in the aforesaid order. Hence, he requests this Court set aside the impugned order and remand the matter back to the respondent.

5. In reply, the learned Government Advocate appearing for the respondent has confirmed the submissions made by the petitioner and she would fairly admit that one of the issues involved in this case is with regard to Section 16(4) of GST Act and hence, he requests this Court to pass appropriate orders.

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

7. In the case on hand, a detailed reply dated 04.04.2024 was filed by the petitioner for the show cause notice issued by the respondent. On the very same day, i.e., on 04.04.2024, a notice for personal hearing was issued by the respondent, whereby the petitioner was directed to appear before the respondent for production of additional documents, if any. Thereafter, without providing any further time for filing the additional documents, the impugned order came to be passed by the respondent on 20.04.2024, which is a clear violation of principles of natural justice. This Court is of the view that it is just and fair to provide an opportunity to present their case before the respondent.

8. Further, it is clear that one of the issues involved in this case is with regard to Section 16(4) of GST Act. This Court has already dealt

with the said aspect vide order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, whereby the provisions of Section 16(4) was struck down. However, without considering the same, the impugned order was passed by the respondent based on the provisions of Section 16(4), which is contrary to the aforesaid order passed by this Court. Therefore, this Court is inclined to set aside the impugned order. Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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 pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) As far as the issue with regard to Section 16(4) of GST Act, is concerned, the respondent shall taking into consideration of the law laid down by this Court vide order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, pass appropriate orders on merits and in accordance with law.

9. 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

Assistant Commissioner
Tiruvottiyur- Avadi- Tiruvallur,
Tamil nadu.

KRISHNAN RAMASAMY.J.,

nsa

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