IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.20663 of 2025
and
W.M.P.Nos.23285 & 23290 of 2025

M/s. Seetu Fan House,
rep. by its Partner,
Mr.Alpesh Jain ...Petitioner

Vs.

The Deputy State Tax Officer-II
Kothalwalchavadi Assessment Circle
Room NO.312, III Floor, Integrated Commercial
Taxes Buildings, No.32, Elephant Gate Bridge
Chennai – 600 003. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order dated 22.08.2024 passed by the respondent against the petitioner's Firm vide GSTIN : 33ACYFS3748P1Z1 for the AY 2019-20 and to quash the same as arbitrary.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.K.M.Malarmannan learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who takes notice on behalf of the respondent. 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 passed by the respondent dated 22.08.2024 for the AY 2019-20 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that after reply was filed by the petitioner, no personal hearing opportunity was given to the petitioner; that only in the event, the respondent is convinced with the reply filed by the petitioner and intends to pass orders in favour of the petitioner, the question of affording personal hearing opportunity does not arise, and in the event, the respondent intends to pass any adverse orders against the petitioner, in terms of Section 75 (4) of the CGST Act, it is mandatory to provide an opportunity of hearing to the assessee before passing any adverse order; that in the present case, no such opportunity was granted to the petitioner before confirming the demand made in the show cause notice, therefore, the impugned order is not only against the provisions contemplated under the Section 75 (4) of CGST Act but also suffers from violation of principles of natural justice, as the petitioner has not been heard before passing such order. Hence, the learned counsel prayed to set aside the impugned order.

4. The learned Government Advocate (T), for the respondent fairly admitted that no personal hearing opportunity was afforded to the petitioner subsequent to the receipt of the reply from the petitioner to the show cause notice, therefore, submitted that appropriate orders may be passed.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. The petitioner is an assessee on the files of the respondent under the provisions of the CGST/SGST Act. The respondent issued a show cause notice in Form DRC-01 dated 21.05.2024 for the year 2019-20. The petitioner, upon receipt of such show cause notice, filed reply dated 17.08.2024 in Form GST DRC-06, however, the respondent, without affording any opportunity of personal hearing to the petitioner, passed the impugned order, thereby, confirming the proposals contained in the show cause notice.

6.1 In terms of Section 75 (4) of the CGST Act, it is mandatory on the part of the respondent to provide an opportunity of hearing to the assessee before passing any adverse order, whereas, in the present case, no such opportunity was granted to the petitioner before confirming the demand made in the show cause notice, therefore, the impugned order is not only against the provisions contemplated under the Section 75 (4) of CGST Act but also suffers from violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order.

6.2 Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 22.08.2024 is set aside.

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

iii) The respondent is directed to issue a notice affording an opportunity of personal hearing to the petitioner and after considering the reply that has already been filed by the petitioner and hearing the petitioner in full, shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.08.2025

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Index : yes/no
Neutral Citation : yes/no

To
The Deputy State Tax Officer-II
Kothalwalchavadi Assessment Circle
Room NO.312, III Floor, Integrated Commercial
Taxes Buildings, No.32, Elephant Gate Bridge
Chennai – 600 003.

Krishnan Ramasamy,J.,

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