IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22061 of 2025
& W.M.P.Nos.24793 & 24795 of 2025

CVK Infra Reality Private Limited
Rep. by its Manager Hemkumar,
No.25/14, Ground Floor,
Mettukulam Street,
Padi,
Chennai - 600 050. ... Petitioner

Vs.

The State Tax Officer,
Padi Assessment Circle,
4th Floor, Room No.426,
the Integrated Building for Commercial tax
& Registration Department (South Tower),
Nandanam,
Chennai - 35. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records in assessment orders issued by the respondent in GSTIN

33AAFCC3478A1Z2, the reference No.ZD3307242264985 passed on 19.07.2024 and quash the same as illegal, arbitrary and in violation of principles of natural justice, consequentially directing the respondent to consider on merits and pass a fresh order after affording an opportunity of being heard.

For Petitioner : Mr.R.Prabhakaran

For Respondent : M/s.P.Selvi,
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the impugned rejection order dated 19.07.2024.

2. The case of the petitioner is that the petitioner is a Residential Flat Promotor and has filed a return for the Financial Year 2021-22. Thereafter, a show cause notice dated 18.10.2023 was issued to the petitioner, for which he filed a reply on 27.11.2023. However, without considering the same, the petitioner has passed the final assessment order dated 19.07.2024. Challenging the same, the petitioner has filed this writ petition.

3. The learned counsel for the petitioner would submit that in this case, though the reply was filed along with relevant documents on 27.11.2023, for the said show cause notice dated 18.10.2023, the respondent had passed the final assessment order dated 19.07.2024, without providing an opportunity of personal hearing. Hence, he prayed this Court to set aside the impugned assessment order and remit the matter to the respondent to put forth his contentions before the adjudicating authority.

4. On the other hand, the learned Government Advocate appearing for the respondent has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent for fresh consideration.

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

6. In the case on hand, the respondent issued a show cause notice dated 18.10.2023, for which the petitioner filed his reply on 27.11.2023. However, without considering the said reply and providing an opportunity of personal hearing, the respondent has passed the final assessment order dated 19.07.2024. If the respondent is intend to pass the final assessment order, it is mandatory to issue notice to the incumbent under Section 75(4) of the GST Act. But, in the present case on hand, the final assessment order was passed without affording an opportunity of personal hearing to the petitioner, which is in violation of principles of natural justice. Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. To meet the interest of natural justice, this Court is willing to give one more opportunity to the petitioner to putforth his case.

7. In such view of the matter, this Court is inclined to set aside the impugned order dated 19.07.2024. Accordingly, this Court passes the following order:-

(i) The impugned order dated 19.07.2024 is set aside and the matter is remanded to the respondents for fresh consideration. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(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.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

20.06.2025

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

To

The State Tax Officer,
Padi Assessment Circle,
4th Floor, Room No.426,
the Integrated Building for Commercial tax
& Registration Department (South Tower),
Nandanam,
Chennai - 35.

KRISHNAN RAMASAMY.J.,

vm

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