IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.22316 of 2025
and
W.M.P.Nos.25126 & 25127 of 2025

M/s.Thishyan Packagings
Rep: by its Proprietor S.Arun Prasath,
Shed No.3, No.2/3, Panrutiyar Avenue,
Sellangkuppam, Cuddalore,
Tamil Nadu- 607003. ...Petitioner

Vs.

Deputy State Tax Officer (ST)
Cuddalore Town Assessment Circle,
Cuddalore, Tami Nadu. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the assessment proceedings in GST:33ALYPA2613E1ZG dated 24.02.2025 for the year 2020-21 and to quash this impugned order passed therein and direct the respondent to pass fresh orders as per the guidelines issued by the Finance Department Circular No.183/15/2022-GST dated 27.12.2022 after providing an opportunity of personal hearing to the petitioner in this case.

For Petitioner : Mr.C.Baktha Siromani

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

Order

Ms.P.Selvi, learned Government Advocate (Taxes), 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 dated 24.02.2025 passed by the respondent for the AY 2020-21 and to quash the same and direct the respondent to pass fresh orders as per the guidelines issued by the Finance Department Circular No.183/15/ 2022-GST dated 27.12.2022 after providing an opportunity of personal hearing to the petitioner.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice in Form DRC 01 on 25.11.2024 followed by reminders dated 30.12.2024, 07.01.2025 to the petitioner, for which the petitioner filed its reply on 13.01.2025 seeking time to file reply to the show cause notice. Thereafter, the respondent sent a reminder on 20.01.2025 to the petitioner. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the respondent who passed the impugned order has no authority to pass the impugned order. Further, he would submit that the petitioner is ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. In the present case, though the respondent has given time to file reply to the show cause notice, opportunity of personal hearing was not granted to the petitioner before passing the impugned order.

6. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

7. In the case of hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 24.02.2025 is set aside.

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

iii) The petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

Deputy State Tax Officer (ST)
Cuddalore Town Assessment Circle,
Cuddalore, Tami Nadu.

Krishnan Ramasamy,J.,

arr

W.P.No.22316 of 2025

23.06.2025