IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24519 of 2025
& W.M.P.Nos.27621 & 27619 of 2025

Tvl Sri Murugappa Traders
(Represented by its proprietor
Mr. T. Mahendiran) 1,
Kaveripattinam Main Road,
Pochampalli, Krishnagiri 635206.

... Petitioner

Vs.

Assistant Commissioner (ST)
Krishnagiri Assessment Circle II

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC-07 with reference No ZD330124028368M dated 06.01.2024 along with detailed proceeding in GSTIN 33BFZPM3463G1Z1 dated 05.01.2024 for the tax period 2017-18 and quash the same or pass such further or other orders as it may deem fit and proper in the facts and circumstances of this case and render justice.

For Petitioner : Mr.B.Syed Abdul Wakeel
For Mr.N.Chandirasekar

For Respondent : Mrs.K.Vasanthamala, GA

ORDER

This writ petition has been filed challenging the impugned order dated 06.01.2024 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, the show cause notice was issued by the respondent on 25.08.2023. Upon receipt of the said notice, the petitioner sought for extension of time for filing reply. However, without granting any extension of time, the impugned order came to be passed by the respondent. He would also contend that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, this petition

has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount, to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

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

7. In the case on hand, it is evident that the show cause notice was uploaded by the respondent on 25.08.2023. Thereafter, the petitioner sought for extension of time for filing the reply vide communication dated 30.08.2023. However, the said request was not at all considered by the respondent. Subsequently, the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

8. Normally, if the respondent is intend to pass any adverse order against the Assessee, under Section 75(4) of the GST Act, 2017, it is mandatory for them to provide an opportunity of personal hearing prior to the passing of assessment order. However, in this case, no such opportunity of personal hearing was provided to the petitioner 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, the said order is liable to be set aside.

9. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 06.01.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 06.01.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of the disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. 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.

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

08.07.2025

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

To

Assistant Commissioner (ST)
Krishnagiri Assessment Circle II

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.24519 of 2025
& W.M.P.Nos.27621 & 27619 of 2025

08.07.2025