IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P No.22335 of 2025 and
WMP.Nos.25150 and 25152 of 2025

Tvl.Kuberaa Enterprises,
Represented by Mr.Senthil Kumar,
127/55, Bangalore Bye Pass Road,
Opposite to Gokul Speciality Hospital,
Salem, Tamil Nadu- 636004.
GSTIN:33AXKPS6616D1ZF. Petitioner

..Vs..

The Assistant Commissioner (ST),
Alagapuram Circle,
Salem. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the files of the Respondent pertaining to GSTIN:33AXKPS6616D1ZF/2017-18 in Reference No.ZD330125092811L order dated 10.01.2025, to quash the same as illegal and consequently direct the respondent to consider the matter afresh after considering the documents submitted on 26.12.2024 and providing opportunity of hearing and dispose the case on merits.

For Petitioner: Mr.S.Rajesh

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

ORDER

The challenge in this writ petition is to the order dated 10.01.2025 passed by the respondent and to quash the same and consequently direct the respondent to consider the matter afresh after considering the documents submitted on 26.12.2024 and providing opportunity of hearing and dispose the case on merits.

2. The learned counsel for the petitioner submits that the respondent issued a show cause notice to the petitioner on 02.08.2024, for which the petitioner submitted its reply on 26.12.2024 along with necessary documents. But the respondent without considering the same passed the impugned assessment order confirming the proposals made in the show cause notice.

3. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence he prays to set aside the impugned order.

4. The learned Government Advocate (Taxes) appearing for the Respondent submitted that subsequent to the issuance of show cause notice the respondent issued personal hearing notices to the petitioner. However, he would fairly submit that no personal hearing was provided to the petitioner after filing of reply by the petitioner and before passing the impugned order.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

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. That apart, if the respondent intend to confirm the proposals in the show cause notice, it is mandatory to provide opportunity of personal hearing as per Section 75(4) of the Central Goods and Services Tax Act, 2017.

7. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 10.01.2025 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 10.01.2025 is set aside and the matter is remanded to the Respondent for fresh consideration.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 7 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. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

02.07.2025

arr

To

The Assistant Commissioner (ST),
Alagapuram Circle,
Salem.

KRISHNAN RAMASAMY, J.

arr

WP No. 22335 of 2025

02.07.2025