IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.22298 of 2025
and
W.M.P.Nos.25096 & 25097 of 2025

TVL.Fulcrum International Pvt. Ltd
Rep. by its Director, Utham Kumarnath Nath. ..Petitioner

Vs.

THE ASSISTANT COMMISSIONER (ST)
CHOLAVARAM ASSESSMENT CIRCLE
INTEGRATED COMMERCIAL TAXES BUILDING
ELEPHANT GATE, WALL TAX ROAD,
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 calling for the records on the files of the respondent in impugned order vide GSTN : 33AADCF0337R1ZI/ 2020-21 dated 22.02.2025 along with consequential order vide Form GST DRC-07 bearing a Reference No.ZD330225230818H dated 22.02.2025 and to quash the same as arbitrary against the principles of natural justice

For Petitioner : Mr.S.Rajendran

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate (T)

Order

Heard Mr.S.Rajendran learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, 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 22.02.2025 along with consequential order dated 22.02.2025 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that petitioner filed a reply dated 22.01.2025 to the show cause notice issued by the respondent dated 23.11.2024, however, no opportunity of personal hearing was afforded to the petitioner, in terms of Section 75 (4) of the CGST Act, 2017, which mandates granting of opportunity of personal hearing before passing an adverse order, and therefore, it is contended that the impugned order passed by the respondent suffers from violation of principles of natural justice.

3.1 Further, it is contended that though the petitioner has a case on merit, as the impugned order suffers from violation of principles of natural justice, however, he fairly submitted that the petitioner has voluntarily come forward to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter for re-consideration, and thus, prays for appropriate orders in that regard, in which case, the respondent may be directed to afford an opportunity of personal hearing to the petitioner before passing any final orders.

4. Mr.V.Prashanth Kiran, learned Government Advocate (T) for the respondent admitted that subsequent to the reply filed by the petitioner, no opportunity of personal hearing was afforded to the petitioner, and therefore, he fairly submitted that since the petitioner has come forward to deposit 25% of the disputed tax, suitable orders may be passed for re-consideration of the issue by the respondent.

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

6. In the present case, there is no dispute on the aspect that the assessment order suffers from violation of principles of natural justice, as, the petitioner has not been afforded with an opportunity of personal hearing subsequent to the reply filed by them. 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. However, considering the fact that the petitioner, themselves have voluntarily came forward to deposit 25% of the disputed tax in the event of the impugned order is being set aside and the matter is remanded to the respondent for fresh consideration, to which course, the learned Government Advocate for the respondent is also agreable, this Court is inclined to set aside the impugned order on certain terms.

6.1 Accordingly, this Court pass/issue the following orders/directions:-

i) The impugned order and the consequential order both dated 22.02.2025 are set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of four weeks from the date of receipt of a copy of this order.

iv) In the event, the petitioner intends to file any additional reply/documents, the same shall be filed within a period of two weeks therefrom.

and

v) Thereafter, the respondent is directed to issue a notice affording an opportunity of personal hearing to the petitioner and after considering both the reply that has already been filed by the petitioner and the additional reply, if any, 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.

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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