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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.22410 of 2025
and
W.M.P.Nos.25208 & 25210 of 2025

Tvl.Sobiya Electronics and Fancy Stores,
Rep by its Prop.Mubarak Shekmohammed,
No.42A, Annasalai Bhavani Road, Anthiyur,
Erode, Tamil Nadu- 638 501. ...Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
O/o, The Commercial Tax Officer,
Bhavani Assessment Circle,
Erode.
...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to challenging the impugned order bearing ref No.GSTIN:33CGAPS6828J1Z3/2020-2021 dated 10.02.2025 and FORM GST DRC-07 vide Ref No.ZD330225098034L dated 10.02.2025 under

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Section 73 of the Act along with consequential proceeding order of rejection of Application for Rectification bearing Ref.No.ZD3305252230213 dated 21.05.2025 passed by the Respondent and quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Mrs.K.Vasanthamala Government Advocate (Taxes)

<u>Order</u>

Mrs.K.Vasanthamala, 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 10.02.2025 passed by the respondent for the AY 2020-21 and also consequential proceeding order of rejection of Application for Rectification dated 21.05.2025 passed by the Respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice dated 09.12.2023 followed by reminder notices dated 22.10.2024 and 03.12.2024 to the petitioner for

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which the petitioner submitted its replies on 16.11.2024 and 15.12.2024. Subsequently, the respondent sent reminder notice to the petitioner through registered post on 13.01.2025 mentioning the date of personal hearing on 22.01.2025 which was received on 24.01.2025 i.e., subsequent to the date of personal hearing fixed by the respondent. Thereafter, the respondent without considering the replies filed by the petitioner passed the impugned assessment order confirming the proposals made in the show cause notice. That apart, the impugned assessment 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. Subsequently, the petitioner filed an application for rectification, which was also rejected by the respondent vide order dated 21.05.2025.

3.1. It is also submitted by the learned counsel for the petitioner 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 assessment order and remand the matter back to the Authority for fresh consideration.

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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. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident the respondent sent the reminder notice vide registered post dated 13.01.2025 mentioning the date of personal hearing as 22.01.2025 which was received by the petitioner on 24.01.2025 i.e., subsequent to the date of personal hearing. Therefore, the petitioner could not appear for personal hearing. Subsequently, the respondent passed the impugned assessment order dated 10.02.2025. In such circumstances, this Court is of the view that 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. Hence, this Court is inclined to set-aside the impugned assessment order with terms, by issuing the following directions:-

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i) The impugned order passed by the respondent dated 10.02.2025 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.

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

02.07.2025

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Index : yes/no
Neutral Citation : yes/no

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To

The Assistant Commissioner (ST)(FAC),
O/o, The Commercial Tax Officer,
Bhavani Assessment Circle,
Erode.

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Krishnan Ramasamy,J.,

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W.P.No.22410 of 2025

02.07.2025

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