IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23342 of 2025
& W.M.P.Nos.26222 & 26226 of 2025

Tvl Adavath Vishal Naik
Proprietor of Ms. NRKV Engineering and Consultants,
No. 23/13, Mahalakhshmi Street,
Velacherry, Chennai- 600042

... Petitioner

Vs.

The State Tax Officer
Velacherry Assessment Circle,
Station No.571, Integrated Commercial Taxes
and Registration Department, (South Tower),
Room No.234, 2nd Floor,
Nandanam, Chennai-600 035.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the proceedings of the Impugned Order dated 25.02.2025 bearing Ref. No. ZD331124195198A passed by the respondent herein and quash the same

For Petitioner : Mr.R.Krishnamurthy

For Respondent : Ms.P.Selvi, GA

ORDER

This writ petition has been filed challenging the impugned order dated 25.02.2025 passed by the respondent.

2. Ms.P.Selvi, 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 23.11.2024. Upon receipt of the said notice, the petitioner had filed their reply on 19.02.2025. However, without considering the said reply, 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 23.11.2024. Thereafter, the petitioner had filed their reply on 19.02.2025. However, according to the petitioner, the said reply was not at all considered by the respondent while passing the assessment order. Further, it appears 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.

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 25.02.2025 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 25.02.2025 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.

27.06.2025

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

To

The State Tax Officer
Velacherry Assessment Circle,
Station No.571, Integrated Commercial Taxes
and Registration Department, (South Tower),
Room No.234, 2nd Floor,
Nandanam, Chennai-600 035.

KRISHNAN RAMASAMY.J.,

nsa

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