IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24160 of 2025
& W.M.P.Nos.27183 & 27185 of 2025

Tvl.Ramasamy Mayavel,
(Trade Name: Usha Cashews),
Rep. by its Proprietor,
No.149, North Street, Alagappasamuthiram,
Cuddalore - 607 103. ... Petitioner

Vs.

Commercial Tax Officer,
Cuddalore : Tamil Nadu
... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of Order of Assessment in DRC-07 bearing Reference No:ZD3303250771897 in GSTIN/ID: 33BJYPM8839H1ZD/2021-22 dated 12.03.2025 passed by the respondent and to quash the same and further direct the respondent to pass fresh orders of assessment after granting an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.R.Ganesh Kanna

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

ORDER

This writ petition has been filed challenging the impugned order dated 12.03.2025 passed by the respondent.

2. Mr.V.Prasanth Kiran, 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 dated 26.11.2024 for the assessment year 2021-22 and the subsequent reminders dated 03.01.2025, 21.01.2025 & 03.02.2025 came to be issued by the respondent. Subsequently, vide representation dated 18.02.2025, the petitioner sought for time extension of two weeks to submit their reply in response to the said show cause notice. However, without granting any further time, the impugned order

dated 12.03.2025 came to be passed by the respondent. Therefore, this petition has been filed.

4. Further, he would submit that the respondent has already deducted certain amount from the ECL of the petitioner and now, the petitioner is willing to pay 25% of the disputed tax amount after deducting the amount already recovered by 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 fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he 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, initially the show cause notice dated 26.11.2024 and the subsequent reminders dated 03.01.2025, 21.01.2025 & 03.02.2025 came to be issued by the respondent. Subsequently, vide representation dated 18.02.2025, the petitioner has sought extension of two weeks to submit their reply in response to the said show cause notice. However, without granting any such time, the impugned order was passed by the respondent on 12.03.2025.

8. Further, it was contended by the petitioner that no opportunity of personal hearing was provided to them prior to the passing of impugned order. 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 respondent has already deducted certain amount from the ECL of the petitioner and now, the petitioner is willing to pay 25% of the disputed tax amount after deducting the amount already recovered by the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 12.03.2025 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 12.03.2025 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, after deducting the amount already recovered by 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.

07.07.2025

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

Commercial Tax Officer,
Cuddalore,
Tamil Nadu

KRISHNAN RAMASAMY.J.,

vm

W.P.No.24160 of 2025
and W.M.P.Nos.27183 & 27185 of 2025

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