IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24803 of 2025
& W.M.P.Nos.27959 & 27960 of 2025

Tvl.Hameem Trading Company,
Rep. by its Proprietor,
Mr.Meera Hussain,
Old No.19 New No.37,
Thambu Chetty Street, Mannady,
Chennai - 600 001. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Muthialpet Assessment Circle,
North-I, Chennai North,
Block No.32, Elephant Gate Bridge Road,
Chennai - 600 003. ... 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 relation to the impugned order GSTIN?33AAHPM9324J1ZJ/2019-20 dated 12.08.2024 on the file of the respondent, quash the same as it is arbitrary and consequently direct the respondent to hear the petitioner on merits before passing the order.

For Petitioner : M/s.Jayalakshmi.P

For Respondents : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order dated 12.08.2024 passed by the respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, this 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, due to technical glitch in the ICEGATE Portal during the Financial Year 2019-20, the IGST paid on imports was not auto-populated in GSTR-2A and in this regard a show cause notice was issued on 21.05.2024, for which the petitioner has submitted a detailed reconciliation with supporting bills of entry, explaining that the mismatch

was purely technical and not indicative of any ineligible credit. Subsequently, the respondents dropped the proposal relating to the mismatch on IGST paid on imports and confirmed the remaining portion of the proposed demand by passing the impugned order dated 12.08.2024 stating that there was no objection from the petitioner and unwillingness to furnish necessary documents . Challenging the same, the petitioner has come forward with the present writ petition.

4. Further, he would submit that the respondent without considering the reply filed by the petitioner and without providing an opportunity of personal hearing, the respondent passed the impugned order dated 12.08.2024. 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 dated 12.08.2024.

5. On the other hand, learned Government Advocate appearing for the respondent would farily submit that without providing an opportunity of personal hearing, the assessment order dated 12.08.2024 has been

passed and if this Court fees it appropriate and it is a fit case for reconsideration, this Court may consider and pass orders.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

7. In the case on hand, initially the show cause notice dated 21.05.2024 came to be issued by the respondent. Subsequently, the petitioner has filed a reply dated 20.06.2024 to the said show cause notice. However without considering the same, the respondent passed the impugned order dated 12.08.2024.

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 impugned 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. Accordingly, this Court passes the following order:-

(i) The impugned order dated 12.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply dated 20.06.2024/objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(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.

9. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.07.2025

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

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To

The Assistant Commissioner (ST),
Muthialpet Assessment Circle,
North-I, Chennai North,
Block No.32, Elephant Gate Bridge Road,
Chennai - 600 003.

KRISHNAN RAMASAMY.J.,

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