IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24999 of 2025
& W.M.P.Nos.28171 & 28172 of 2025

Ms Empire Agencies,
Rep by Partner and Authorized Signatory
Anand Kumar No.11, Audiappa Naicken
Street, Parrys, Chennai 600 001

... Petitioner

Vs.

The Assistant Commissioner ST
Office of the Assistant Commissiner (ST)
Kothawichavadi Assessment Circle, Integrated
Commercial Taxes office Complex, Room no
312 Elephant Gate Bridge Road, chennai 600
003

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records of the i) impugned Assessment Order of the respondent in GSTIN/33AAAFE0151A1ZJ/2020-21 dated 20.02.2025 and ii) the impugned recovery notice of the respondent in Reference No. GSTIN 33AAAFE0151A1ZJ dated 26.05.2025 and quash the same and consequentially, direct the respondent provide the personal opportunity of hearing to the petitioner to produce documents to prove their claim

For Petitioner : Mr.L.G.Sahadevan
For Mr.A.Ilaya Perumal

For Respondent : Ms.P.Selvi, GA

ORDER

This writ petition has been filed challenging the impugned order dated 20.02.2025 and the consequential recovery notice dated 26.05.2025 issued 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, initially, the show cause notice was issued by the respondent on 24.10.2024, for which, a reply was filed by the petitioner on 06.11.2024. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner, which is a clear violation of principles of natural justice.

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.

4. On the other hand, the learned Government Advocate appearing for the respondent 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.

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 issued by the respondent on 24.10.2024, for which a detailed reply was filed by the petitioner on 06.11.2024. Thereafter, 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 20.02.2025 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.02.2025 is set aside and the matter is remanded to the respondent for fresh consideration.

(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 receipt of 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the recover notice issued by the respondent cannot survive any longer and hence, the recovery notice dated 26.05.2025 stands quashed.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

10.07.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Assistant Commissioner ST
Office of the Assistant Commissiner (ST)
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