IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 27958 of 2025
AND
WMP NO. 31347 OF 2025,WMP NO. 31349 OF 2025

Tvl.Santha Engineering,
Rep by its proprietor
Mr.Seetharaman Subramanian,
No.9, Santha Engineering,
Rathinam Garden, Hospital Road Exte,
West Saidapet, Chennai 600 015.

Petitioner(s)

Vs

The State Tax Officer / The commercial
Tax officer,
Office of the Assistant Commissioner,
Saidapet Assessment Circle,
No 46, Mylapore Taluk officer Building
3rd Floor Greenways Road R A Puram
Chennai 600 028.

Respondent(s)

PRAYER:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for records of the impugned order passed in GSTIN 33AXJPS7970B2Z8/2020-21 dated 27.02.2025 on the file of the respondent herein along with the consequential DRC-07 Order under Section 73, Ref No. ZD3302252828573 dated 27.02.2025 on the file of the respondent herein and the quash the same as without jurisdiction, illegal, arbitrary against the principle of natural justice and against the law.

For Petitioner(s): Mr.J.Poojesh

For Respondent(s): Mr.T.N.C.Kaushik
Addl. Govt. Pleader (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment orders dated 27.02.2025, passed by the respondent, relating to the Assessment Year 2020-21.

2.Mr.T.N.C.Kaushik, learned Additional Government pleader (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that, the show cause notice dated 25.11.2024 was issued in Form DRC-01 for the Assessment Year 2020-21 and in response, the petitioner filed their replies/objections on 12.12.2024. However, the respondent has chosen to confirm the proposals contained in the show cause notice without considering the reply of the petitioner and without providing personal hearing opportunity, which is against the provision under Section 75(4) of the Central Goods and Services Tax Act, 2017. Hence, he prayed to set aside the impugned order directing the respondent to provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Additional Government Pleader appearing for the respondent would submit that the replies filed by the petitioner were considered and while filing the replies, the petitioner had chosen "No" in the column of personal hearing and therefore, personal hearing opporunity was not provided to the petitioner.

6.In reply, learned counsel for the petitioner would submit that the petitioner opt to choose “yes” in the personal hearing column. Due to some technical glitch “no” might have been reflected in the portal.

7.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent, it is evident that the respondent has not provided personal hearing opportunity to the petitioner before passing the impugned assessment order since the petitioner has chosen “No” in the column of personal hearing while filing their replies. However, according to the petitioner, they never intend to chose "No" in the personal hearing column. Due to some technical glitch option "No" might have reflected in the personal hearing column.

9.Thus, this Court is of the view that the reason provided by the respondent is unsustainable for the reason that the law mandates personal hearing when the respondent intend to confirm the proposals made in the show cause notice as per the provision under Section 75(4) of the Central Goods and Services Tax Act, 2017.

10.Thus, in such circumstances, this Court is of the view that the assessment order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

11.For the reasons stated above, this Court is inclined to set aside the impugned orders dated 27.02.2025 passed by the respondent. Accordingly, this

Court passes the following order:-

(i)The order impugned herein are set aside and the matters are remanded back to the respondent for fresh consideration.

(ii)The petitioner is directed to produce the relevant documents to the respondent, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On filing of such documents, the respondent shall 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.

12.With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01-08-2025

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

To

The State Tax Officer / The commercial
Tax officer,
Office of the Assistant Commissioner,
Saidapet Assessment Circle No 46,
Mylapore Taluk officer Building,
3rd Floor Greenways Road,
R A Puram Chennai 600 028.

KRISHNAN RAMASAMY J.

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