IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27493 of 2025
& W.M.P.Nos.30838 and 30839 of 2025

Panda Bio Proteins Private Limited,
A 14 A,
SIPCOT Industrial Complex,
Cuddalore, Tamil Nadu – 607005.
Represented By Its Director, Shyam Vemuri ... Petitioner

Vs.

Commercial Tax Officer/State Tax Officer (ST),
Chidambaram-1 Assessment Circle,
Cuddalore, Tamil Nadu. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records and quash the Ex-parte Order dated 20.08.2024 bearing Ref No. ZD3308241683548, passed under Section 73 of the Central Goods and Service Tax Act, 2017, and the consequent order dated 08.02.2025 passed by the Respondent in Reference No. ZD330225082328G, AY 2019-2020 rejecting the rectification application filed under Section 161 of the CGST Act, and further direct the Respondent to remand the matter for de novo consideration, commencing afresh from the stage of issuance of show cause notice, after affording the Petitioner a full and reasonable opportunity of being heard in accordance with law.

For Petitioner : M/s Laksh Singhvi

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 20.08.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Special Government Pleader, 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 31.05.2024 and the subsequent reminders dated 06.08.2024, 09.08.2024 and 16.08.2024 came to be issued by the respondent. Subsequently, the petitioner filed their reply dated 16.08.2024. 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 by the respondent prior to the passing of impugned assessment order.

Challenging the said impugned assessment order, the petitioner filed a rectification application, which was also rejected on 07.02.2025. 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 Special Government Pleader appearing for the respondent would fairly admitted 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 the learned Special Government Pleader for the respondent and also perused the materials available on record.

7. In the case on hand, initially the show cause notice dated 31.05.2024 and the subsequent reminders dated 06.08.2024, 09.08.2024 & 16.08.2024 came to be issued by the respondent. Subsequently, the petitioner has also filed a reply dated 16.08.2024, however, without considering the same, the impugned order was passed by the respondent on 20.08.2024.

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 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 20.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of 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.

With the above directions, this writ petition is disposed of. No costs.

Consequently, the connected miscellaneous petitions are also closed.

29.07.2025

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

To

Commercial Tax Officer/State Tax Officer (ST),
Chidambaram-1 Assessment Circle,
Cuddalore, Tamil Nadu.

KRISHNAN RAMASAMY.J.,

vm

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