IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27475 of 2024
and
W.M.P.Nos.29980, 29981 and 29982 of 2024

Tvl. Shanthi Devi
Proprietor of Shiv. Trading. ...Petitioner

Vs.

The Assistant Commissioner (ST)
N.S.C. Bose Road Assessment Circle
No.32, Elephant Gate Bridge Road,
Integrated Commercial Taxes Offices,
Chennai (North) Division, Chennai – 600 003. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for record of the Respondent in the Impugned Order vide GSTIN.33AAIPD7987R1ZU/2018-19 dated 17.04.2024 along with Form GST DRC-07 issued by the respondent, bearing a Ref.No.ZD330424130848D dated 16.04.2024 for the tax period April, 2018 to March 2019, to quash the same and further to direct the respondent to enable the petitioner to rectify the human error in the details uploaded in Form GSTR-3B for the month of August, 2018 to October, 2018, November, 2018, February, 2019.

For Petitioner : Ms.L.Sweety
for
Mr.J.Abijishek

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

Order

Heard Ms.L.Sweety, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 17.04.2024 along with Form GST DRC-07 dated 16.04.2024 for the tax period April, 2018 to March 2019, to quash the same and further to direct the respondent to enable the petitioner to rectify the human error in the details uploaded in Form GSTR-3B for the month of August, 2018 to October, 2018, November, 2018, February, 20

3. The learned counsel appearing for the petitioner would submit that the petitioner, on receipt of the show cause notice, filed a reply, and after the filing of the reply, the respondent ought to have provided an opportunity of personal hearing to the petitioner, but, without doing so, straightaway proceeded to confirm the proposals contained in the show cause notice and passed the impugned order, which is in violation of principles of natural justice and against the provisions of Section 75 (4) of the CGST Act,2017. It is further submitted that the respondent, in furtherance of the impugned proceedings initiated recovery proceeding against the petitioner, whereby, a sum of Rs.17,76,752/- has been recovered. Therefore, the learned counsel prays for setting aside the impugned order without imposing any condition on the petitioner.

4. The learned Special Government Pleader for the respondent would submit that since it is stated that a sum of Rs.17,76,752/- has been recovered from the petitioner, subject to the verification of such statement, the impugned order may be set aside and the matter may be remanded to the respondent for fresh consideration.

5. I have given due consideration to the submissions made on either aside and perused the materials available on record.

6. In the case on hand, there is no dispute on the aspect that, after the filing of reply by the petitioner, the respondent has not granted any opportunity of personal hearing to the petitioner, but has straight away proceeded to confirm the proposals contained in the show cause notice. Therefore, as rightly pointed out by the learned counsel for the petitioner, the impugned order suffers from violation of principles of natural justice. Further, the impugned order is also against the provisions of Section 75 (4) of the TNGST Act, inasmuch as, in terms of Section 75 (4) of the TNGST Act, an opportunity of hearing has to be granted, where any adverse decision is contemplated against taxpayer (petitioner in this case).

6.1 Thus, considering the fact that the impugned order has been passed in violation of principles of natural justice and in futherance of the impugned order a sum of Rs.17,76,752/- has already been recovered from the petitioner's account, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 17.04.2024 along with Form GST DRC-07 dated 16.04.2024 are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeksfrom the date of receipt of a copy of this order.

v) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)
N.S.C. Bose Road Assessment Circle
No.32, Elephant Gate Bridge Road,
Integrated Commercial Taxes Offices,
Chennai (North) Division, Chennai – 600 003.

Krishnan Ramasamy,J.,

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