IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29041 of 2025
and
W.M.P.Nos.32572 & 32577 of 2025

M/s Cocoa Bay
Rep. by its Managing Partner, Mr. P Vikranth
D.No. New.54, Old.37 Bharathi Park 7th Cross
Saibaba Colony, Coimbatore Tamil Nadu- 641 043.

Vs.

The Assistant Commissioner (ST) (FAC)
Mettupalayam Road Assessment Circle
Coimbatore, Tamil Nadu-641 018. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the Impugned Assessment Order in Ref. No.ZD330225118159M dated 13.02.2025 under Section 73 of the CGST/TNGST Act 2017 and uploaded the same along with the summary of order in DRC-07 for the Financial Year 2020-21 from the files of the respondent herein and to quash the same

For Petitioner : M/s. Aparna Nandakumar
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard M/s.Aparna Nandakumar learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran learned Government Advocate (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 13.02.2025 under Section 73 of the CGST/TNGST Act 2017 and uploaded the same along with the summary of order in DRC-07 for the Financial Year 2020-21 and to quash the same.

3. The learned counsel appearing for the petitioner contended that the petitioner was unaware of any of the proceedings initiated against the petitioner, inasmuch as, none of the communications/show cause notice/personal hearing notice/reminder notices were served on the petitioner directly through physical mode of service but made it available only on the GST Portal, under the 'Additional notices and Orders", hence, the petitioner failed to file reply and respond to such notices, however, the respondent without even hearing the petitioner, passed the impugned order. Therefore, it is contended that the impugned order is an ex pate order and suffers from violation of principles of natural justice, and is liable to be set aside. However, the learned counsel for the petitioner is ready and willing to deposit 25% of the tax, as proposed in the show cause notice dated 21.11.2024, in the event, the impugned order is set aside and the matter is remitted to the respondent for fresh consideration.

4. The learned Government Advocate would fairly admit that the petitioner was not heard before passing the impugned order, and therefore, submitted that in the event this Court is inclined to set aside the impugned order and remand the matter for re-consideration, appropriate direction may be issued to the petitioner to treat the impugned order as show cause notice and to file a reply, based on which, appropriate orders would be passed by the respondent in accordance with law.

5. I have given due considerations to the submission made by the learned counsel for the petitioner and learned Government Advocate for the respondent and perused the materials available on record.

6. The petitioner, viz., 'M/s.Cocoa Bay" is a Partnership Concern dealing with the bakery items and other allied products. The petitioner, being a registered assessee on the files of the respondent under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (for short, TNGST Act) has been filing monthly returns without any default. However, the respondent issued a show cause notice in DRC-01A dated 21.11.2024, whereby, the petitioner was directed to file reply/objection on or before 21.12.2024 and three notice of personal hearing were issued to the petitioner on 02.01.2025, 04.02.2025 & 12.02.2025. However, since all such notices/communications were uploaded in the GST common portal under the column, "View Notices and Orders", the petitioner's erstwhile consultant failed to note the same and in the absence of any reply/response from the petitioner, the respondent, proceeded to confirm the proposals contained in the show cause notice and passed the impugned order.

6.1 Thus, as rightly pointed out by the learned counsel for the petitioner, the impugned order suffer from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the tax as proposed in the show cause notice in DRC-01 dated 21.11.2024, and taking into consideration of the submission made by the Government Advocate, which is to the effect that, "the impugned order may be treated as show cause notice, to which, the petitioner may file a reply, based on which, appropriate decision would be taken by the respondent in accordance law', this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 13.02.2025 is set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) The petitioner is directed to treat the impugned order dated 13.02.2025 as show cause notices and shall file reply along with supportive documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

and

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 matters 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.

05.08.2025

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Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner (ST) (FAC)
Mettupalayam Road Assessment Circle
Coimbatore, Tamil Nadu-641 018.

Krishnan Ramasamy,J.,

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