IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32096 of 2025
and
W.M.P.Nos.35983 & 35984 of 2025

M/s. S.N.V. Traders,
Represented by Nallappan Venkatesan,
Proprietor, 4/5-B, Therku Valavu Kattupalli,
Salem.

... Petitioner

Vs.

The State Tax Officer (FAC)
Edappadi Assessment Circle,
Salem.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the respondent in GSTIN:33ANAPV7160R1ZC/2018-19 dated 18.01.2025 and quash the same as invalid and illegal.

For Petitioner : Ms.B.Sirichandana
for Mr.Srikanth
For Respondent : Ms.P.Selvi,
Government Advocate
(Taxes)

ORDER

Ms.P.Selvi, learned Government Advocate (Taxes) 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 dated 18.01.2025 passed by the respondent for the AY 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 05.11.2024 to the petitioner for which the petitioner filed its reply on 13.01.2025 requesting fifteen days time for filing reply. But without considering the request made by the petitioner, the respondent has passed the impugned order within a week i.e., on 18.01.2025, confirming the proposals contained in the show cause notice. Further, the learned counsel would submit that the impugned assessement order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

4. The learned Government Advocate (Taxes) for the respondent submitted that intially show cause notice was issued to the petitioner, thereafter three personal hearing notices were issued to the petitioner, despite which the petitioner neither filed its reply nor appeared for personal hearing, but only sought time for filing reply vide letter dated 13.01.2025. Therefore, the request made by the petitioner was not considered.

5. Heard both sides. Perused the records.

6. In the case on hand, as contended by the learned Government Advocate (Taxes) for the respondent, despite several opportunities being granted to the petitioner, they neither filed reply nor appeared for personal hearing. But, the respondent has to take note of the fact that the petitioner sought time to file reply for the 1st time and therefore the respondent ought to have considered the said request. If the petitioner makes repeated requests, he can very well reject the same. But without doing so, the respondent had passed the assessment order without considering the request made by the petitioner. That apart, if the respondents intend to confirm the demand, they ought to have provide an opportunity of personal hearing, as per Section Section 75 (4) of the CGST Act, 2017. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

7. In the case on hand, the impugned order came to be passed without considering the request of the petitioner for filing reply and also without hearing the petitioner.

8. In such view of the matter, this Court is inclined to set-aside the impugned order, by issuing the following directions:-

i) The impugned order passed by the respondent dated 18.01.2025 is 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 weeks from the date of receipt of a copy of this order.

iv) Thereupon, the respondent is directed to consider the reply and shall issue a 7 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.

9. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.08.2025

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

The State Tax Officer (FAC)
Edappadi Assessment Circle,
Salem.

KRISHNAN RAMASAMY.J.,

arr

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