IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.35927 of 2024
and
W.M.P.Nos.38802 and 38803 of 2025

M/s.Maya Electricals,
Rep. by its Prop.Mr.Mangi Lal,
Old No.204/205, New No.96,
Shop No.16,
Govindappa Naicken Street,
Sowcarpet, Chennai,
Tamil Nadu-600079. ... Petitioner

..Vs..

The State Tax Officer,
Group -VI, Inspection, Intelligence-I,
The Commercial Taxes Building,
PAPJM Building,
Room No.118, First Floor,
No.1, Greams Road,
Chennai-600006. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Assessment Order dated 29.05.2024 via DRC 07 in GSTIN/33AAMPM9937C1Z1/2020-21 (**"impugned order"**) issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the recovery notices dated 21.08.2024 and 27.08.2024 and remand back the matter to the respondent.

For Petitioner : Mr.A.Dhamodaran

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the order dated 29.05.2024 passed by the respondent and to quash the same.

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 time of admission stage itself.

4. The learned counsel for the petitioner submits that the show cause notice dated 15.02.2024 was issued to the petitioner. As the petitioner's auditor was unwell, he failed to submit reply. However, he appeared for personal hearing and submitted a reply on 28.03.2024 seeking time to submit the

required details. But the respondent, without affording sufficient time and opportunity of personal hearing has passed the impugned assessment order dated 29.05.2024, demanding tax along with interest and penalty for the Assessment Year 2020-2021. Subsequently, the respondent issued the attachment notice dated 21.08.2024 and the recovery notice dated 27.08.2024.

5. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that though sufficient time has been granted as requested by the petitioner, the petitioner neither filed the supporting documents nor appeared in person to substantiate its case and hence impugned assessment order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) appearing for the Respondent has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, the petitioner states that without providing sufficient opportunity to file required documents and opportunity of personal hearing, impugned order came to be passed. But, it is the case of the respondent that despite sufficient time being granted to the petitioner to file supporting documents the petitioner neither filed the supporting documents nor appeared in person to substantiate its case and hence impugned assessment order came to be passed.

9. 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.

10. In the case on hand, though the petitioner sought time to file required documents, without considering the same impugned order came to be passed.

That apart, the impugned order also passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 29.05.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.05.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and 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 two weeks thereafter.

(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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20.03.2025

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

The State Tax Officer,
Group -VI, Inspection, Intelligence-I,
The Commercial Taxes Building,
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Room No.118, First Floor,
No.1, Greams Road,
Chennai-600006.

Krishnan Ramasamy,J.,
arr

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