IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.36271 of 2024
& W.M.P.Nos.39149 & 39150 of 2024

Jolarpet Malaya Gounder Rajhenthiran
95, 4th Street, PN Road, Tirupur 641602

... Petitioner

Vs.

National Faceless Assessment Centre
Room No. 401, 2nd Floor, E- Ramp,
Jawaharlal Nehru Stadium, Delhi-110 003
Rep by Assessment unit,
Income Tax Department.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent leading to issuance of Impugned Order dated 16.10.2024 (vide DIN ITBA/AST/S/143(3)/2024-25/1069714394(1)) and quash the same.

For Petitioner : Mr.S.Sathyanarayanan

For Respondent : Dr.B.Ramaswamy, Sr.St.counsel

ORDER

This writ petition has been filed challenging the impugned order dated 16.10.2024 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this case, the final show cause notice was issued by the respondent on 25.09.2024. According to the petitioner, they are supposed to answer for 5 issues, out of which, three issues were already in existence and two issues were newly added by the respondent and hence, the petitioner had requested for time extension, for filing the reply, till 15.10.2024. However, after considering the request made by the petitioner, the respondent had granted the time extension only till 30.09.2024. On 30.09.2024, once again, the petitioner had sought for further extension of time for filing their reply, however, the said request was rejected by

the respondent. Under these circumstances, the impugned order came to be passed by the respondent without granting any opportunity of personal hearing, which is violation of principles of natural justice.

3. Further, he would contend that though the reply was made ready on 15.10.2024, i.e., prior to the passing of impugned order, the petitioner was unable to file the same since the option for uploading the reply was disabled in the GST common portal. Hence, he request to this court to grant an opportunity to present their case before the respondent.

4. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that the notice was issued on 18.09.2024 and for filing the reply, the petitioner sought for extension of time till 15.10.2024. Accordingly, the time was granted by the respondent till 30.09.2024. However, the petitioner had failed to avail the said opportunity to file their reply. Under these circumstances, the impugned order came to be passed by the respondent. Hence, he would request this court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondent and also perused the materials available on record.

6. In this case, the final show Cause Notice was issued by the respondent on 18.09.2024, whereby 2 additional variations were raised in addition to the three existing variations. In order to answer all the issues raised by the respondent, the petitioner had requested for extension of time, till 15.10.2024, for filing their reply. However, the respondent had granted time extension only up to 30.09.2024. Once again, the petitioner had requested for further extension of time, however, the said request was rejected by the respondent. Under these circumstances, the impugned order came to be passed on 16.10.2024.

7. According to the petitioner, though the reply was made ready on 15.10.2024, i.e., prior to the passing of assessment order, they were unable to file the said reply since the option for uploading the reply was disabled in the portal. Now, it was requested by the petitioner to grant one more opportunity to file their reply before the respondent. Further, it

was contended that no personal hearing opportunity was granted to the petitioner prior to the passing of impugned order.

8. 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 in contrary to the provisions of Section 75(4) of the GST Act.

9. Further, when the petitioner requested for extension of time to file their reply, the respondent was supposed to have acceded the said request by providing sufficient time for filing the reply. However, in this case, in spite of the request made by the petitioner, no time extension was provided by the respondent and thus, it is clear that the impugned order has been passed in violation of principles of natural justice.

10. It was also submitted by the petitioner that though the reply was made ready on 15.10.2024, since the option for uploading the said reply was disabled in the common portal, they were unable to file the said reply. In such case, this Court is of the considered view that it is just and necessary to grant an opportunity to the petitioner to file their reply to substantiate their case before the respondent. Therefore, this Court is inclined to set aside the impugned order dated 16.10.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 16.10.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The respondent is directed to keep the portal open, so as to enable the petitioner to upload his reply, within a period of 2 weeks from the date of a copy of this order.

(iii) Thereafter, the petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks therefrom.

(iv) 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.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

24.06.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

National Faceless Assessment Centre
Room No. 401, 2nd Floor, E- Ramp,
Jawaharlal Nehru Stadium, Delhi-110 003
Rep by Assessment unit,
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