BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.2199 of 2025
and
W.M.P.(MD) No.1574 of 2025

M/s.Rasi Trading Company,
Rep., by its Partner H.Ameerdeen,
SF No.78/5A, North Nagamangalam,
Trichy – Madurai Main Road, Trichy. .. Petitioner

Vs.

The State Tax Officer (Ins)-II,
O/o. The Deputy Commissioner (ST) (Inspection),
Trichy. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the files in Ref. No.ZD331123191526J dated 30.11.2023 of the Respondent herein and quash the same as illegal, arbitrary, without jurisdiction and in violation of principles of natural justice and direct the respondent to pass fresh assessment order after affording an opportunity of personal hearing to file the reply.

For Petitioner : Mr.N.Sudalaimuthu

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The challenge in the writ petition is to the order of assessment made against the petitioner on the ground that there was no sufficient opportunity of hearing given to the petitioner.

2. The petitioner had been issued with a DRC-01A notice on 02.03.2023 and the petitioner had also submitted his reply on 17.04.2023. Having not been satisfied with the said reply, a further notice in DRC-01 was issued on 20.07.2023 also fixing the date of hearing on 19.08.2023. Since 19.08.2023 fell on Saturday, which was brought to the notice by the petitioner, a fresh final hearing notice was issued on 14.09.2023 fixing the date of hearing on 21.09.2023. The petitioner seems to have not appeared before the authority and the respondent had passed orders under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as “the Act”).

3. No further opportunity of hearing as contemplated under the Act had been given to the petitioner, nor the order does not determine the tax payable by the petitioner. The objections given by the petitioner to the DRC-01A notice were also not considered. The manner in which the impugned order had been passed has been in a total violation of Section 74 of the Act, which requires determination of tax payable by the assessee by a well reasoned order. In view of the infirmity found in the order, this Court has no other option except to set aside the order impugned, however, with liberty to proceed afresh after affording an opportunity of hearing to the petitioner.

4. In such view of the matter, the order impugned is set aside and the writ petition stands allowed. The matter is remitted back to the respondent to grant an opportunity of hearing to the petitioner. On the date fixed by the respondent, the petitioner shall appear before the respondent and assail the show cause notice issued under DRC-01 along with written explanation and relevant documents. Thereafter, the respondent shall pass speaking/well reasoned order as contemplated

under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017. If the petitioner fails to attend the hearing on that date, it is open to the respondent to pass appropriate orders, which shall also be well reasoned. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

The State Tax Officer (Ins)-II,
O/o. The Deputy Commissioner (ST) (Inspection),
Trichy.

K.KUMARESH BABU, J.

abr

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