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W.P.No.8895 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8895 of 2025
& W.M.P.Nos.9989 & 9990 of 2025

Micromini, Rep by its Partner, Mr.Abu Thahir,
Old No.5, New No.4/5, 2nd Floor,
Nallathambi Street, Ellis Road,
Mount Road, Chennai, Tamil Nadu 600 002

... Petitioner

Vs.

Assistant Commissioner (ST)(FAC),
Intelligence-I, Chennai,
PAPJM Building, No.1, Greams Road,
2nd Floor, Chennai 600 006

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the file of the respondent and quash the impugned order under Section 74 of TNGST Act, 2017/CGST Act, 2017 including the summary of the order in Form GST DRC-07 both dated 02.12.2024 and having Ref.No.ZD331224010159W and its annexure dated 02.12.2024 in GSTIN 33ABHFM2148P1ZY/2020-21 passed by the respondent for the FY 2020-21.

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For Petitioner : Mr.N.V.Balaji
For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 02.12.2024 passed by the respondent.

2. The learned counsel appearing for the petitioner would submit that in this case, the show cause notice was issued by the respondent on 14.11.2023, whereby they had demanded a sum of Rs.1,48,76,818/- towards tax and a sum of Rs.1,54,38,382/- towards penalty. Thereafter, a detailed reply was filed by the petitioner on 12.12.2023. However, while passing the impugned order, the respondent had raised a demand for a sum of Rs.1,54,38,382/- towards tax, which was not proposed either in the aforesaid show cause notice or in any manner, due to which, no opportunity was provided to the petitioner to explain their case on the said aspect. Hence, he would contend that in non-application of mind,

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the respondent had passed the impugned order, which travels beyond the scope of show cause notice dated 14.11.2023 and requests this Court to set aside the said impugned order.

3. In reply, the learned Additional Government Pleader appearing for the respondent had also confirmed the aforesaid contentions and would fairly admit that the impugned order has been passed beyond the scope of show cause notice. Hence, he requests this Court to pass appropriate orders.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and also perused the materials available on record.

5. In this case, there is no dispute on the aspect that the impugned order dated 02.12.2024 was passed by the respondent beyond the scope of show cause notice dated 14.11.2023.

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6. Normally, if any discrepancy is traced out, the respondents are supposed to have pointed out the same to the petitioner and provided sufficient opportunity to them to present their case. However, in this case, all of a sudden, the respondents had raised a demand of a sum of Rs.1,54,38,382/- towards tax, for the very first time, while passing the impugned assessment order, which is a clear violation of principles of natural justice.

7. For all the reasons stated above, this Court is of the considered view that it is a fit case to interfere on the aspect of non-providing of sufficient opportunity to the petitioner. Therefore, this Court is inclined to set aside the impugned order. Accordingly, this Court passes the following order:-

(i) The impugned order dated 02.12.2024 is set aside and the matter is remanded to the respondent for fresh consideration

(ii) The petitioner is directed to consider the aforesaid assessment order dated 02.12.2024 as a notice issued under Section 74 of the GST Act and file their reply/objection along with the required



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documents, if any, within a period of two weeks from the date of receipt of copy of this order.

(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.

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

19.03.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

Assistant Commissioner (ST)(FAC),
Intelligence-I, Chennai,
PAPJM Building, No.1, Greaves Road,
2nd Floor, Chennai 600 006

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KRISHNAN RAMASAMY.J.,

nsa

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