



W.P.No.30842 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30842 of 2024
& W.M.P.Nos.33439 & 33450 of 2024

M/s.Shree Rajaganapathy Steels,
Rep by its Partner, Tmt.C.Chandrakala,
S.F.No.656/1,2,5,6,7, Vaikal Medu,
Pallapalayam Post, Perundurai Taluk,
Erode 638 116

... Petitioner

Vs.

- 1.The State Tax Officer (ST),
Perundurai Circle, Perundurai,
No.299, Bhavani Road,
Perundurai 638 052.
- 2.The Joint Commissioner (ST) Intelligence,
Erode Division, Erode.
- 3.The Deputy Commissioner (ST),
Erode, Erode 638 001.
- 4.The Branch Manager,
Dhanalakshmi Bank,
10/210, Sathy Road,
Veerapanchatram, Erode.

... Respondents



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Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned summary of the order of the 1st respondent in Form GST DRC-07 bearing Ref.No.ZD330124029107X/2018-19 dated 06.01.2024 and the consequential impugned bank attachment proceeding issued by the 3rd respondent in Ref.No.33ABFFS8428J1ZV/APR-2018 to MAR 2019 along with Form GST DRC-13 dated 27.06.2024 to the 4th respondent and quash the same and consequently, direct the 1st respondent to provide the relied upon documents in support of his stand and afford cross-examination with the suppliers and other third parties.

For Petitioner : Mr.M.Hariharan

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate for R1 to R3

ORDER

This writ petition has been filed challenging the impugned order dated 06.01.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents 1 to 3. By consent of the parties, the main writ petition is taken up for disposal at the admission



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stage itself.

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3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent in the GST portal. Since the accountant of the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.



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5. Heard the learned counsel for the petitioner and the learned

Government Advocate for the respondent and also perused the materials available on record.

6. In the case on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since 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 order dated 06.01.2024 passed by the respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 06.01.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondents within a period of four weeks from today (24.10.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.



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(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st 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 orders itself have 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 4th respondent is directed to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

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



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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

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Perundurai 638 052.
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KRISHNAN RAMASAMY.J.,

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