



W.P.No.31016 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31016 of 2024
& W.M.P.Nos.33626 & 33627 of 2024

Tvl.Jomsons Enterprises (India) Private Limited,
145, NA, Sampath Street,
Rathinapuri, Coimbatore,
Tamil Nadu 641 027.
Rep by its Authorised Signatory,
Mrs.Veda Bestin

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Thudiyalur Assessment Circle,
1st Floor, Annexure Building,
CTO Complex, Dr.Balasundaram Road,
Coimbatore 641 018.

2.The Branch Manager,
Axis Bank,
10th Street, Gandhipuram,
Coimbatore, Tamil Nadu 641 012.

... Respondents



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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 Recovery Notice vide Form GST DRC 13 bearing Ref.No.33AACCJ7104P1ZG/2024 dated 25.09.2024 issued by the 1st respondent, quashing the same as void ab initio, without jurisdiction, arbitrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.S.Muthuvenkatraman

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader
for R1

ORDER

This writ petition has been filed challenging the impugned order dated 25.09.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since 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. Further, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

4. On the other hand, the learned Additional Government Pleader appearing for the 1st respondent would submit that the 1st respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he 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 Additional Government Pleader for the 1st 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 25.09.2024 passed by the 1st respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 25.09.2024 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 respondent within a period of four weeks from today (18.10.2024) 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 2nd 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



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closed.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

The Assistant Commissioner (ST),
Thudiyalur Assessment Circle,
1st Floor, Annexure Building,
CTO Complex, Dr.Balasundaram Road,
Coimbatore 641 018.



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KRISHNAN RAMASAMY.J.,

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