# IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 24.10.2024**

**Coram:**

**The Hon'ble Mr.Justice KRISHNAN RAMASAMY**

**W.P.No.31624 of 2024**
**and W.M.P.Nos.34377 & 34378 of 2024**

Tvl.Sri Narasimha Silks
[Represented by its Proprietor Mr.D.Gopi],
1, Kalaignar Market Opposite,
Maaris Market, C.B.Road,
Bargur, Krishnagiri,
Tamil Nadu – 635 104.

...Petitioner

Versus

The Assistant Commissioner [ST],
Krishnagiri – II, Assessment Circle,
Krishnagiri.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the 1st respondent herein FORM GST DRC – 07 with Reference No.ZD331223084325N dated 13.12.2023 along with detailed proceeding in GSTN: 33BKEPG9438B1ZG/2018-19 dated 11.12.2023 for the tax period 2018-19 and quash the same.

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| For Petitioner | : | Mr.N.Chandirasekar |
| For Respondent | : | Mr.TNC.Kaushik,<br>Additional Government Pleader (Tax) |

**ORDER**

Mr.TNC.Kaushik, Additional Government Pleader (Tax) takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought by the petitioner herein is call for the records on the files of the 1st respondent herein FORM GST DRC – 07 with Reference No.ZD331223084325N dated 13.12.2023 along with detailed proceeding in GSTN: 33BKEPG9438B1ZG/2018-19 dated 11.12.2023 and quash the same.

4. The learned counsel for the petitioner submitted that the respondent has passed the impugned order with regard to the estimation of tax on finding difference between the purchase turnover and sales turnover. In the present case, without serving the Notice in Form GST ASMT-10, the

respondent has directly issued Form GST DRC-01A dated 05.10.2023 and Show Cause Notice in Form GST DRC-01 dated 09.11.2023. He further submitted that the show cause notice and the impugned order were uploaded in the "Additional Notices and Orders" tab of the GST portal and the same were not served to the petitioner by any other mode. Hence, the petitioner was not aware of the proceedings and could not participate in the proceedings. The petitioner came to know about the impugned order only in the 2nd week of September 2024. The respondent has attached the petitioner's Bank Account lying with Canara Bank, Bargur, Dharmapuri, but, the copy of the Bank Attachment proceedings were not served to the petitioner. Since the petitioner's Bank Account was freezed, the petitioner's business operation has come to a standstill. He also submitted that prior to the issuance of impugned order, the respondent did not even provide an opportunity of hearing to the petitioner to put forth their case. Therefore, the learned counsel prayed this Court to quash the impugned order and issue appropriate direction to the concerned Bank Authority to de-freeze the petitioner's Bank Account.

5. On the other hand, the learned Additional Government Pleader

(Tax) appearing for the respondent submitted that the matter may be remanded back to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Tax) appearing for the respondent and perused the materials available on record.

7. As far as this case is concerned, without providing an opportunity of hearing to the petitioner, the respondent has passed the impugned order, which is in violation of the principles of natural justice. Therefore, this Court is of the opinion that the impugned order is ought to be quashed and an opportunity of personal hearing has to be afforded to the petitioner to establish their case.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court issues the following directions:

(i) The impugned order in FORM GST DRC – 07 with Reference

No.ZD331223084325N dated 13.12.2023 along with detailed proceeding in GSTN: 33BKEPG9438B1ZG/2018-19 dated 11.12.2023 passed by the respondent is quashed and the matter is remanded back to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount, within a period of four weeks from the date of receipt of a copy of this order. After making such payment, the petitioner shall produce the payment proof before the respondent.

(ii) It is made clear that quashing of the impugned order will come into effect, only from the date of payment of 10% of the disputed tax amount by the petitioner.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the respondent shall consider the petitioner's Reply/Objection and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

(v) Since the impugned order itself has been quashed, the attachment of petitioner's Bank Account cannot survive any longer. Hence, the attachment of petitioner's Bank Account is hereby ordered to be lifted. As a sequel, the petitioner is directed to produce a copy of the proof of payment of 10% of disputed tax amount before the Branch Manager, Canara Bank, Bargur, Dharmapuri and on production of the same, the Branch Manager shall de-freeze the petitioner's Bank Account, immediately.

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

**24.10.2024**

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

The Assistant Commissioner [ST],
Krishnagiri – II, Assessment Circle,
Krishnagiri.

**KRISHNAN RAMASAMY, J.**

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W.P.No.31624 of 2024

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