IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.2700 of 2025 &
W.M.P.Nos.3040, 3041 and 3042 of 2025

M/s.Madras Metals,
Rep. By its Proprietor Raja Madhankumar,
Old No.30, New No.31, Kanchi Natarajan Street,
Vasudevan Nagar, Ashok Nagar,
Chennai-600 083. ... Petitioner

Vs.

1. Assistant Commissioner (ST)(FAC)
Ekkatuthangal Assessment Circle,
O/o the Commercial Taxes Department,
D.No.345, 3rd Floor, Integrated Commercial Taxes
Building, Nandanam, Chennai- 600 035.

2. State Tax Officer,
Ekkatuthangal Assessment Circle,
O/o. the Commercial Taxes Department,
D.No.306, 3rd Floor, Integrated Commercial Taxes
Building, Nandanam, Chennai- 600 035.

3. Superintendent of GST & CE,
Preventive Unit-Chennai South GST Commissionerate,
3rd Floor, MHU Complex,
Anna Salai, Nandanam, Chennai-600 035. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent in the impugned order vide Ref.No.GSTIN/33BSHPM8366B1ZQ/2019-20 dated 22.08.2024 and quash the same and consequently, direct the respondent to defreeze the accounts of the petitioner.

For Petitioner : Mr.P.Jitendra Kumar
For Respondents : Ms.AmirthaPoonkodi Dinakaran
Government Advocate (R1 and R2)
Mr.B.Sivaraman, Junior Counsel
for Mr.Rajnish Pathiyil
Senior Panel Counsel (R3)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 22.08.2024 and to quash the same and consequently direct the respondent to defreeze the accounts of the petitioner.

2. The learned counsel for the petitioner would submit that the 2nd respondent issued show cause notice dated 23.05.2024, for which a detailed reply has been filed by the petitioner on 05.06.2024, along with supporting documents. Thereafter, the 2nd respondent issued reminder notices along with personal hearing dates. Pursuant to which the petitioner appeared before the 2nd respondent through his authorized

representative and made the submissions in addition to the response already filed. It is further submitted that during the aforementioned personal hearing, it was brought to the notice of the 2nd respondent that they are unable to submit the copies of the documents since all the documents related to the Assessment Years 2017-2018 to 2022-2023 are submitted in original to the 3rd respondent, for the enquiry conducted by them. But the 2nd respondent without considering the same passed the impugned order confirming the demand proposed in the show cause notice.

3.Further, he would submit that the petitioner filed the representations dated 07.09.2023 and 20.08.2024 to the 3rd respondent seeking return of documents. In the mean time, the 1st respondent initiated recovery proceedings against the impugned order , by attaching the account of the petitioner and that apart recovery notices were also issued to the customers of the petitioner.

4. On the other hand, the learned Government Advocate (Taxes) appearing for the respondents would submit that the

documents produced by the petitioner were not sufficient and since the documents sought for by the respondents have not been furnished by the petitioner, impugned order came to be passed.

5. In reply, the learned counsel for the petitioner would submit that they have received the documents from the 3rd respondent only on 18.02.2025 and therefore an opportunity may be provided to the petitioner to substantiate their case.

6. Heard both sides. Perused the records.

7. In the case on hand, though the impugned order came to be passed only after providing opportunity of personal hearing to the petitioner, the petitioner was not able to produce some of the documents sought for by the respondents and therefore in the absence of said documents the impugned order came to be passed. Therefore, this Court is of the view that since the impugned order came to be passed in the absence of some of the documents, it amounts to depriving the interest of the petitioner and now the petitioner is ready to produce the same

8. Hence, in the interest of justice, this court deems it fit to remand the matter back to the respondents for fresh consideration. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.08.2024 is set aside and the matter is remanded to the respondents for fresh consideration.

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

(iii) On filing of such reply/objection by the petitioner, the respondents shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner, if any cannot survive any longer and hence, it is lifted. As a sequel, the respondents are directed to instruct the concerned bank to defreeze the the bank account of the petitioner immediately upon the production of a copy of this order.

9. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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KRISHNAN RAMASAMY.J.,
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