IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.4668 of 2025**
**& W.M.P.Nos.5164 & 5165 of 2025**

Arumugam Rajagopal

... Petitioner

**Vs.**

1.The Assistant Commissioner,
O/o.Deputy Commissioner of Central GST and Central Excise,
Tirupur Division, Tirupur 641 603

2.The Branch Manager,
Axis Bank Limited, Prithvi Comples,
4/442-A, Palladam Main Road,
Veerapandi, Tiruppur 640 605

... Respondent

**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 relating to the issuance of cancellation order bearing Ref.No.14/2023-AC-TPR (GST-Adj) dated 30.06.2023 by the 1st respondent herein and quash the same and further, direct the 1st respondent herein to lift the bank attachment made in 2nd respondent's bank.

For Petitioner : Ms.Sri Harini S.P.

For Respondent : Ms.Revathi Manivannan,
Senior Standing counsel for R1

**ORDER**

This writ petition has been filed challenging the impugned order dated 30.06.2023 passed by the respondent.

2. Ms.Revathi Manivannan, learned Senior Standing counsel, 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.

3. The learned counsel for the petitioner would submit that the show cause notice was issued by the 1st respondent on 07.02.2022. However, due to family disputes, the petitioner was unable to concentrate in business and hence, being unaware 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. Further, he would submit that one of the issues involved in the present writ petition is with regard to the claim made by the petitioners for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017. He would also submit that the said issue has been squarely covered by the common order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, etc, whereby, this Court had quashed the impugned order passed by the Department. Hence, he requests this Court to pass appropriate orders.

5. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that the respondent had duly issued the show cause notice to the petitioner. 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 pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel for the respondent and also perused the materials available on record.

7. 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.

8. Further, it was submitted by the learned counsel for the petitioner that one of the issues involved in this petition is with regard to the claim made by the petitioners for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017. As submitted by the

learned counsel for the petitioner, the said issue was already dealt with by this Court in W.P.Nos.25081 of 2023, etc, whereby, this Court, vide common order dated 17.10.2024, had quashed the impugned order passed by the Department. In such view of the matter, this Court is inclined to quash the impugned order only the aspect of aforesaid issue pertaining to Section 16(4) of GST Act. As far as other issues are concerned, this Court is inclined to set aside the impugned order dated 30.06.2023 passed by the respondent.

9. Accordingly, this Court passes the following order:-

(i) The impugned order dated 30.06.2023 is quashed only to the extent of issue relates to the claim made by the petitioner for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017

(ii) As far as other issues are concerned, the impugned order dated 30.06.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(iii) 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.

(iv) 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.

(v) 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 cannot survive any longer and hence, it is to be lifted. As a sequel, the 2$^{nd}$ respondent is directed to de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

9. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

**28.03.2025**

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

To

The Assistant Commissioner,
O/o.Deputy Commissioner of Central GST and Central Excise,
Tirupur Division, Tirupur 641 603

**KRISHNAN RAMASAMY.J.,**

nsa

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