IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.4231 of 2025
and W.M.P.Nos.4732 & 4735 of 2025

M/s.Packiam Traders,
Rep by its Proprietor,
V.Packiaraj,
Plot No.2, Saranga Avenue Extention,
Old Perungalathur,
Chennai – 600 063. .. Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Tambaram Assessment Circle,
Station: Integrated CT & Regn,
Department Building,
South Tower, Room No.342,
Nandanam, Guindy Taluk,
Chennai – 600 035. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the impugned order dated 18.12.2023 in Order No.GSTIN:33AHEPV6274G1Z3/2017-18 issued by the respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Prabakaran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 18.12.2023 in Order No. GSTIN: 33AHEPV6274G1Z3 / 2017-18 issued by the respondent and quash the same as illegal and arbitrary.

2.Learned counsel for the petitioner would submit that the petitioner was engaged in trading Scrap like Aluminium, Iron, Brass, Copper and allied products. The respondent department conducted scrutiny of the return for the tax period 2017-2018 of the petitioner company and issued show cause notice dated 29.09.2023. The said show cause notice was uploaded in the GST portal and no physical copy of the notice was served to the petitioner. Therefore, the petitioner was not aware of the show cause notice. Thereafter, the impugned order came to be passed in *ex parte* on 18.12.2023. The impugned order was also not served to the petitioner, it was only uploaded on the portal, which is violation of principle of natural justice.

3.He would further submit that out of the total disputed tax demand of Rs.8,43,423/-, the respondent has already recovered a sum of Rs.6,96,549/- by way of bank attachment. If the petitioner is provided with an opportunity, they will establish before the respondent that they have made the tax due properly without fail and hence, prayed to quash the impugned proceeding.

4.Learned Government Advocate appearing for the respondent would submit that more than 50% of the disputed tax demand has been recovered from the petitioner and therefore, the matter may be remanded back to the respondent.

5.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials on record.

6.Considering the submission made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent, it is seen that the impugned order has been passed in *ex parte,* without providing an opportunity of personal hearing, which would clearly amounts to the violation of principles of natural justice. Further, taking note of the fact that from the total disputed liability of Rs.8,43,423/-, a substantial amount of Rs.6,96,549/- has been recovered from the petitioner by way of attachment, this Court feels that the manner in which the notice was served to the petitioner is not proper. Therefore, this Court is inclined to set aside the impugned order. Accordingly, this Court passes the following orders:-

(i) The order impugned herein is set aside and the matter is remanded back to the respondent for re-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 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, within a period of three weeks.

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

18.02.2025

rst
Index : Yes/No
Neutral Citation: Yes/No

To:

The Assistant Commissioner (ST) (FAC),
Tambaram Assessment Circle,
Station: Integrated CT & Regn,
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KRISHNAN RAMASAMY, J.

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