IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No. 4822 of 2025**
**and**
**W.M.P.No.5339 & 5340 of 2025**

Moonstar Lines Pvt. Ltd.,
rep.by its Director,
Mr.M.H.Mohamed Yousuf. ...Petitioner

Vs.

The State Tax Officer
Ayanavaram Assessment Circle
Chennai- 600 006. ...Respondent

**Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the issuance of the assessment order bearing reference GSTIN : 33AALCA0912F1Z7/2019-20dated 16.08.2024 by the respondent herein and to quash the same as arbitrary.

For Petitioner : M/s.S.P.Harini
For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

**Order**

Heard M/s.S.P.Harini learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T), who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

**2.** The challenge in this Writ Petition is to the order passed by the by the respondent herein dated 16.08.2024and to quash the same.

**3.** The learned counsel for the petitioner would submit that a show cause notice dated 20.05.2024 was issued by the respondent in Form GST DRC 01, which was followed by reminders dated 23.07.2024and 06.08.2024; that since such notices/communications were merely uploaded in the GST Portal the same were unnoticed by the petitioner's Accountant and only when the second reminder notice dated 06.08.2024 was sent and the same was informed by the petitioner's Accountant, immediately thereafter, reply was filed on 16.08.2024, and by the time, reply was filed by the petitioner, the impugned order came to be passed against the petitioner dated 16.08.2024.

**3.1** Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. Further, it is stated that the petitioner is also ready and willing to pay 25%of the disputed tax, in the event, this Court is inclined to set aside the impugned order, and thus, prays for appropriate orders.

**4.** The learned Additional Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

**5.** I have given due considerations to the submissions made on either side and perused the materials available on record.

**6.** On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications through any physical mode of service, particularly, by RPAD, and made it available only in the GST Portal, which the petitioner was not aware, and only when the petitioner's Accountant informed the petitioner about the second reminder notice dated 06.08.2024, the petitioner came to know of the impugned assessment proceedings, and though reply was filed by the petitioner dated 16.08.2024, the impugned order came to be passed by then.

**6.1** Thus, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing by an ex parte order, as the same suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court passes the following orders/directions:-

i) The impugned order dated 16.08.2024 passed by the respondent is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of four weeks from the date of receipt of a copy of this order.

iv) In the event, the petitioner intended to file any additional reply, the same shall be filed within a period of two weeks thereafter.

v) Thereupon, the respondent is directed to consider the reply already filed by the petitioner dated 16.08.2024 and additional reply, if any and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

**7.** In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

**13.02.2025**

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer
Ayanavaram Assessment Circle
Chennai- 600 006. ..

**Krishnan Ramasamy,J.,**

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**W.P.No. 4822 of 2025**

**13.02.2025**