IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.4825 of 2025
and
W.M.P.Nos.5343, 5344 & 5345 of 2025

Tvl. S.Selvaraj Vasanthakumar
rep. by its Proprietor. ...Petitioner

Vs.

1. The State Tax Officer (Inspection -I)
O/o. Deputy Commissioner (ST) (INSPECTION)
Villupuram Camp @ Vellore.

2. The State Tax Officer
No.40, Katpadi Road,
Gudiyatham (East). ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari of the first respondent's order dated 01.08.2023, in GSTIN : 33ADOPV1971E1ZB/2022-23 and its consequential recovery notice issued by the second respondent dated 16.12.2024, in Form GST DRC-13 and to quash the same.

For Petitioner : Ms.B.Avanticka
for M/s.Adithya Reddy.J.

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Ms.B.Avanticka, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (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 first respondent dated 01.08.2023 and its consequential recovery notice issued by the second respondent dated 16.12.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned orders were merely uploaded in the GST portal, which, the petitioner had no occasion to view the same, therefore, the petitioner could not file reply nor appear for the personal hearing, however, the respondent, without waiting for the petitioner's reply and without hearing the petitioner, passed the impugned order, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

3.1 The learned counsel for the petitioner further submitted that the petitioner has already deposited entire disputed tax, and hence, prays for setting aside the impugned order.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already paid the entire 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 orders 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 under the "View of additional notices and orders' column, which the petitioner was not aware.

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, taking into consideration of the fact that the entire tax liability has been discharged by the petitioner, this Court passes the following orders/directions:-

i) The impugned order passed by the first respondent dated 01.08.2023 and its consequential recovery notice issued by the second respondent dated 16.12.2024 are set aside.

ii) The matter is remanded back to the first respondent for fresh consideration.

iii) Taking into consideration of the fact that entire tax liability has been discharged by the petitioner, no condition is imposed on the petitioner for setting aside the impugned order.

iv) The petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the reply 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

sd

Index : yes/no
Neutral Citation : yes/no

To
1. The State Tax Officer (Inspection -I)
O/o. Deputy Commissioner (ST) (INSPECTION)
Villupuram Camp @ Vellore.

2. The State Tax Officer
No.40, Katpadi Road,
Gudiyatham (East).

Krishnan Ramasamy,J.,

sd

W.P.No.4825 of 2025

13.02.2025