IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.02.2025
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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.4872 of 2025**
**and**
**W.M.P.Nos.5399 & 5401 of 2025**

M/s. Big Fridge
rep. by its Managing Partner,
Mr.P.Dinesh ...Petitioner

Vs.

1.The Assistant Commissioner
Peelamedu North Circle,
Coimbatore – 641 018.

2. The Branch Manager,
Karur Vysya Bank
1391E, 1391F, 1393/1
Avinashi Road, Peelamedu,
Coimbatore – 641 004. ...Respondents

**Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records leading to the issuance of assessment order bearing Ref. GSTIN : 33AAUFB1945M1Z1/2019-20 dated 27.08.2024 by the first respondent herein and to quash the same and to direct the first respondent to lift the bank attachment made to the Managing Partner's bank account lying with the second respondent bank vide notice in Form GST DRC-13 dated 06.01.2025.

For Petitioner : M/s.S.P.Sri Harini
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

**Order**

Heard M/s.S.P.Sri Harini learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, 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 of assessment order passed by the first respondent herein dated 27.08.2024 and to quash the same and to direct the first respondent to lift the bank attachment made to the Managing Partner's bank account lying with the second respondent bank vide notice in Form GST DRC-13 dated 06.01.2025.

**3.** The learned counsel for the petitioner would submit that the petitioner, on receipt of a show cause notice in Form GST DRC-01 dated

24.05.2024, filed a reply on 24.06.2024, however, the first respondent passed the impugned order dated 27.08.2024, without providing opportunity of personal hearing to the petitioner. Therefore, the learned counsel would submit that the impugned order is an ex parte as it suffers from violation of principles of natural justice and liable to be aside. The petitioner also seeks for a direction to the first respondent to lift the bank attachment.

**4.** The learned Government Advocate (T) for the respondent fairly admitted that no personal hearing opportunity was granted to the petitioner, therefore, submitted that appropriate orders may be passed.

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

**6.** In the case on hand, though the petitioner, on receipt of a show cause notice dated 24.05.2024, filed a reply on 24.06.2024, however, the first respondent has rejected the reply as not-satisfactory without assigning any reasons, and erroneously recorded that the petitioner has not submitted any documentary evidence, and passed the impugned order dated

27.08.2024, without providing opportunity of personal hearing to the petitioner. Therefore, it is clear that the impugned order suffers from violation of principles of natural justice and is against the provisions of Section 75 (4) of the TNGST Act, inasmuch as, an opportunity of hearing ought to have been granted, where any adverse decision is contemplated against taxpayer (petitioner in this case). In fact, this Court is of the view that had the reply filed by the petitioner was appreciated by the first respondent and personal hearing opportunity was granted, obviously, the petitioner would have explained the respondent/Authority, whereby, the respondent would have dropped the proceedings against the petitioner or otherwise, would have provided the reasons for rejection. Therefore, this Court is of the view that the impugned order is nothing but an ex parte order and hence, is inclined to set aside.

**6.1** Accordingly, this Court passes the following orders/directions:-

i) The impugned order dated 27.08.2024 passed by the first respondent is set aside.

ii) Consequently, the matter is remitted back to the first respondent for fresh consideration, who shall fix a date for personal hearing by issuing a clear 14 days notice and hear the petitioner in person and peruse the records and redo the assessment in accordance with law.

iii) In the event, the petitioner intends to file an additional reply, the same shall be filed along with documents, if any, within a period of two weeks from the date of receipt of a certified copy of this order, which shall also be taken note of by the first respondent before redoing the assessment.

iv) So far as the Bank Attachment Order is concerned, it is needless to state that once, the impugned order is set aside and the matter is remanded back to the first respondent for re-consideration, bank attachment order can no longer survive and the same has to be jettisoned.

**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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To

1.The Assistant Commissioner
Peelamedu North Circle,
Coimbatore – 641 018.

2. The Branch Manager,
Karur Vysya Bank
1391E, 1391F, 1393/1
Avinashi Road, Peelamedu,
Coimbatore – 641 004.

**Krishnan Ramasamy,J.,**

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