IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5020 of 2025&
W.M.P.Nos.5569 and 5570 of 2025

Kalaivani Logistics Private Limited,
(Represented by its Director V.S.Mohan Kumar)
Unipunch Crown 2nd Floor, J2, Plot no.38,
Door No.40, Second Main Road,
Chennai- 600 058. ... Petitioner

Vs.

1. The Deputy State Tax Officer,
   Nungambakkam Assessment Circle,
   Egmore Taluk Office Building,
   Spur-Tank Road, Chennai- 600 03.

2. The Deputy Commissioner (ST),
   Central III, PAPJM Building,
   Greams Road, Chennai- 600 006.

3. The Branch Manager,
   AXIS Bank, Symphony Palace,
   Door No.450/744, Poonamallee High Road,
   Kilpauk, Chennai- 600 010. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order bearing reference number ZD3308241914828 dated 22.08.2024 passed by the first respondent and quash the same.

For Petitioner : Ms.K.Aaarthy

For Respondents : Mr.C.Harsha Raj (R1 and R2)
Special Government Pleader

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ORDER

This writ petition has been filed by the petitioner challenging the order of the 1st Respondent dated 22.08.2024 and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) takes notice on behalf of the respondents.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case the respondents issued Show Cause Notice to the Petitioner on 23.05.2024. Since the same was uploaded in the GST Portal, the petitioner was not aware of the same and hence could not file reply. Subsequently, the 1st respondent passed the impugned order dated 22.08.2024 demanding tax along with interest and penalty for the Assessment Year 2019-2020 and the same was also uploaded in the GST portal. The petitioner came to know of the impugned order only after the initiation of recovery proceedings by the 2nd respondent dated 21.01.2025. She further submitted that by way of recovery proceedings, a sum of Rs.1,80,000/- has already been recovered from the account of the petitioner.

5.Further, she would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Special Government Pleader (Taxes) would submit that since the petitioner had not submitted reply to the show cause notice, impugned order came to be passed. However, he fairly submitted that already a sum of Rs.1,80,000/- has been recovered from the petitioner's bank account.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

8. In the present case, since the show cause was uploaded in the GST portal, the petitioner is not aware of the same and hence could not file reply. Further, it appears 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 is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the

impugned order dated 22.08.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.08.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, within a period of two weeks thereafter.

(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.

(iv) 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 lifted. As a sequel, the 3rd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of Rs.1,80,000/- as stated above.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

17.02.2025

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

1. The Deputy State Tax Officer,
   Nungambakkam Assessment Circle,
   Egmore Taluk Office Building,
   Spur-Tank Road, Chennai- 600 03.

2. The Deputy Commissioner (ST),
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3. The Branch Manager,
   AXIS Bank, Symphony Palace,
   Door No.450/744, Poonamallee High Road,
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KRISHNAN RAMASAMY.J.,

arr

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