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.Nos.5061,5150, 5154 and 5158 of 2025&
W.M.P.Nos.5614, 5615, 5719, 5721,5725,5726,5730 and 5734 of 2025

M/s.Vihan Caters,
Represented by its Proprietor,
Mrs.Balasubramanian Arulmozhi
HIG-104, Ground Floor, Phase-I,
Nolambur Main Road, Mogappair West,
Chennai 600 037. ... Petitioner in all W.P.'s

Vs.

1. The State Tax Officer (ST),
   Group I Intelligence
   No.1 PAPJM Building
   Greams Road, Thousand Lights
   Chennai 600 006.

2. Assistant Commissioner (ST)
   Ambattur Industrial Estate Assessment Circle
   Room No.324, 3rd Floor, Integrated Building for
   Commercial Taxes and Registration Department
   South Tower, Office,
   Saidapet Veterinary Hospital Campus,
   Nandanam, Chennai 600 035. ... Respondents in all W.P.'s

Prayer in all W.P.'s: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order Nos. ZD330624344222R, ZD3306243370440, ZD330624328910I and ZD330624337492F dated 27.06.2024 issued by the first respondent and quash the same.

For Petitioner : Mr.S.Ravichandran
(in all W.P.'s)
For Respondent : Ms.AmirthapoonkodiDinakaran
(in all W.P.'s) (Government Advocate)

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COMMON ORDER

Since the issue involved and the relief sought for in all these writ petitions are one and the same, they are taken up together and disposed of vide a common order.

2. These writ petition has been filed by the petitioner challenging the order of the 1st Respondent dated 27.06.2024 and to quash the same.

2. Ms.AmirthaPoonkodiDinakaran, learned Government Advocate (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 Notices to the Petitioner on 23.04.2024 and the same was uploaded in the GST Portal and that apart it was sent to the Petitioner's auditor E-mail, as per the directions of the petitioner. But the petitioner's auditor had not noticed the same and hence the petitioner could not file reply. Subsequently, the 1st respondent passed the impugned orders dated 27.06.2024 demanding tax along with interest and penalty for the Assessment Years 2018-2019, 2019-2020, 2020-2021 and 2022-2023. and the same was also uploaded in the GST portal. The petitioner came to know of the impugned orders only after the notice was issued to the petitioner's tenant to make the payment against the demand raised vide impugned orders. He further submitted that subsequently, bank account of the petitioner was also attached. He further submitted that the petitioner is ready and willing to

pay a sum of Rs.20,00,000/-,in toto to the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim. However, since the respondents have already recovered a sum of Rs.12,00,000/- through the bank attachment, they are willing to pay the balance sum of Rs.8,00,000/-.

5.Further, she would submit that impugned orders 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 Government Advocate (Taxes) would submit that since the petitioner had not submitted reply to the show cause notices, impugned order came to be passed. However, he fairly submitted that already a sum of Rs.12,00,000/- have been recovered from the petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (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 and the notice sent to the petitioner's auditor to his E-mail I.D. was not noticed by its auditor, 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 orders dated 27.06.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the Respondents for fresh consideration on condition that as volunteered by the

Petitioner, they shall pay a sum of ***Rs.8,00,000/- (20,00,000-12,00,000)*** for all assessment years to the Respondents within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, 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 orders 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 respondents are directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of Rs.8,00,000/- as stated above.

9. With the above directions, these writ petitions are 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

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KRISHNAN RAMASAMY.J.,

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