IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4996 of 2025
and
W.M.P.Nos.5547 & 5548 of 2025

Huzefa Mustansir Raja,
Proprietor of M/s.Saif Trading Corporation,
52, Sembudoss Street, Broadway,
Chennai 600 001

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Harbour Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003

2.The Branch Manager,
Kotak Mahindra Bank Limited,
3, Dass India Tower,
2nd Line Beach, Parrys,
Chennai 600 001

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the 1st respondent in GSTIN: 33AATPH4870J1ZB/2019-20 dated 29.08.2024 and the connected order under Section 73 dated 29.08.2024 and the summary of the order in Form GST DRC-07 dated 29.08.2024 issued in Ref.No.ZD330824277579Q and quash the same as passed contrary to the provisions of the CGST Act, 2017 read with TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Ms.K.Vasanthamala, Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 29.08.2024 passed by the 1st respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all

notices/communications were uploaded by the 1st respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner has already deposited the entire disputed tax amount to the 1st respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the 1st respondent by setting aside the impugned orders. That apart, he would also request this Court to lift the attachment made on the bank account of the petitioner.

5. On the other hand, the learned Government Advocate appearing for the 1st respondent would submit that the 1st respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of

impugned order. Therefore, she requested this Court to remit the matter back to the 1st respondent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and also perused the materials available on record.

7. In the cases on hand, it is clear 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 was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner had already paid the entire disputed tax amount to the 1st respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 29.08.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.08.2024 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, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st 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 2nd respondent is directed to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

8. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

14.02.2025

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

To

The Assistant Commissioner (ST),
Harbour Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003

KRISHNAN RAMASAMY.J.,

nsa

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