IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6556 of 2025
& W.M.P.Nos.7221 & 7222 of 2025

E.Banumathi,
Sole Proprietor of Tvl.Sakthi Print Solution,
No.2/19, Rama Rao Garden,
Royapettah, Chennai 600 014.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Royapettah Assessment Circle,
Room No.206, 2nd Floor,
Integrated Commercial Taxes & Registration Department Building,
Nandanam, Chennai 600 035.

2.The Branch Manager,
HDFC Bank, Centre point,
No.221 & 222, Lloyds Road,
Gopalapuram, Chennai 600 086.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records leading to the issuance of assessment order bearing Ref GSTIN: 33AAJPB8331

J1ZV/2017-18 dated 28.12.2023 passed by the 1st respondent herein and quash the same.

For Petitioner	:	Mr.L.Gokulraj, for Ms.Sri Harini S.P.
For Respondent	:	Ms.K.Vasanthamala, Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 28.12.2023 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 1st respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. He would also submit that the 1st respondent had already recovered a sum of Rs.4,00,000/-, out of the total tax liability of Rs.5,54,013/-, vide the bank attachment order dated 12.04.2024. 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 order.

5. On the other hand, the learned Government Advocate appearing for the 1st respondent would submit that the respondents 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, subject to verification of recovery of Rs.4,00,000/- as stated above.

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 1st respondent had already recovered a sum of Rs.4,00,000/-, which would come around 72% of total tax liability of Rs.5,54,013/-. In such view of the matter, this Court is inclined to set

aside the impugned order dated 28.12.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.12.2023 is set aside and the matter is remanded to the 1st respondent for fresh consideration, subject to the verification of recovery of Rs.4,00,000/- by the respondents from the petitioner as stated above.

(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 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 a copy of this order.

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

26.02.2025

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

To

The Assistant Commissioner (ST),
Royapettah Assessment Circle,
Room No.206, 2nd Floor,
Integrated Commercial Taxes & Registration Department Building,
Nandanam, Chennai 600 035.

KRISHNAN RAMASAMY.J.,

nsa

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