IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.5503 of 2025
and
W.M.P.No.6074 of 2025

M/s.Krishnan Rajagopal ... Petitioner

Vs.

The Superintendent of
CGST & Central Excise, Alandur Division,
Chennai South Commissionerate,
First Floor, M.H.U.Complex, 692, Anna Salai,
Nandanam,
Chennai-600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in and connected with the Order-in-Original No.20/2023(GST-SUPDT R-IV) in O.C.No.83/2023 in DIN 20230859TL0000202067 dated 07.08.2023 issued by the respondent, quash the same and consequently direct the respondent to re-consider the petitioner's case, taking into account the evidence and submissions made during the personal hearing.

For Petitioner : Mr.B.Sathish Sundar
For Respondent : Mr.Sai Srujan Tayi
Senior Standing Counsel

ORDER

The petitioner is before this Court against the impugned Order in Original No.20/2023 (GST-SUPDT R-IV) dated 07.08.2023 passed by the respondent for the tax period 2017-2018.

2. By the impugned Order, the proposal in SCN No.10/2022 dated 23.12.2022 demanding a total tax liability of Rs.2,86,662/- has been confirmed as the petitioner failed to reply to the said Show Cause Notice. Operative portion of the impugned Order reads as under:-

> " Personal Hearing in this case was accorded to the Taxpayer. The taxpayer has not attended the Personal Hearing and did not submitted any related documents for the excess availment of ITC in GSTR-3B for the invoices not reflected in GSTR-2A".

3. It is in this background, the demand proposed in the said Show Cause Notice No.10/2022 dated 23.12.2022 was confirmed vide impugned order. Relevant portion of the impugned order is as follows:-

> "Accordingly, the taxpayer was issued with SCN No.10/2022 dated 23.12.2022 as proposing to demand an amount totalling to Rs.2,86,662/- and recover under the provisions of Section 73(1) CGST Act, 2017 and TNGST Act, 2017, interest at appropriate rate under Section 50(3) of the CGST Act, 2017 and under Section 50 of TN Goods and Services Tax Act, 2017 and imposition of penalty under Section 73(1) (9) as detailed in the impugned SCN."

4. The challenge to the impugned Order is primarily on the ground that the impugned order is passed in gross violation of Principles of Natural Justice as the petitioner has personally attended the personal hearing held on 22.03.2023 and was represented by one Deepan. However, impugned order has been passed without adverting to the same.

5. The learned counsel for the respondent on the other hand on instructions would submit that the Officer who heard the petitioner's representative on 22.03.2023 subsequently retired and therefore, a fresh notice of hearing was given to the petitioner on 13.06.2023 followed by personal hearing on 23.06.2023. However, petitioner failed to respond to the same and thus, impugned order has been passed.

6. Reading of the impugned order indicates that there is no reference to the personal hearing attended by the petitioner on 22.03.2023 and the documents filed by the petitioner's representative Mr.Deepan.

7. The impugned Order has also not dealt with the defects which the petitioner may have raised at the time of personal hearing held on

22.03.2023 as the petitioner subsequently failed to appear for the personal hearing on 23.06.2023.

8. It is noticed that the limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Order has already expired.

9. The reason stated in the affidavit by the petitioner for approaching this Court belatedly reads as under:-

> "E.The petitioner submits that he is a small time trader and entirely dependent on their consultant / accountant in their GST compliances. On account of miscommunication between the petitioner and the aforesaid consultant/accountant, the petitioner had not taken steps to assail the order. However, that should not come in the way for this Hon'ble Court to step in and cause interference with the impugned order which on the face of it suffers from legal and factual infirmities. Hence the writ."

10. Under similar circumstances, Orders have been quashed and considering the petitioner is a small operator, case has been remitted back to pass a fresh order on terms subject to such Assessee depositing 10% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

11. Considering the fact that the petitioner has approached this Court long after the order was passed and therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order on merits subject to the Petitioner depositing 50% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

12. Within such time, the Petitioner shall also file an additional reply to the Show Cause Notice in GST DRC-01 together with requisite documents to substantiate the case by treating the impugned Order dated 07.08.2023 as an addendum to the Show Cause Notice, if so desires.

13. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

14. It is made clear that bank attachment shall be lifted subject to the petitioner depositing 50% of the disputed tax as ordered above and the petitioner is not in arrears of any other amount barring the amount demanded under the impugned Order.

15. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

16. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

17. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petition is closed.

10.12.2025

ssn

To:

The Superintendent of
CGST & Central Excise, Alandur Division,
Chennai South Commissionerate,
First Floor, M.H.U.Complex, 692, Anna Salai,
Nandanam,
Chennai-600 035.

<u>C.SARAVANAN, J.,</u>

ssn

<u>W.P.No.5503 of 2025</u>
<u>and</u>
<u>W.M.P.No.6074 of 2025</u>

<u>10.12.2025</u>