IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.02.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5921 of 2025
and
W.M.P.Nos.6509 & 6510 of 2025

M/s Chennai Diamonds Jewellers Pvt Ltd
Rep by its Managing Director
Mr. Om Prakash (M/A 55 Yrs) No. 46 Garuda
Building Cathedral Road Gopalapuram
Chennai-086. ...Petitioner

Vs.

The Assistant Commissioner (ST)/Inspection,
Chengalpattu Intelligence Division
N.S Garden, Kanchipuram, High Road
Thimmavaram Chengalpattu- 603 101. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the Respondent and to quash the impugned assessment order dated 30.10.2024 bearing GSTIN no.33AADCC5500H1Z7 /2022-23 passed by the Respondent as arbitrary.

For Petitioner : Mr.J.Ashish
For Respondent : Mr.C.Harsha Raj
Special Government Pleader (T)

Order

Heard Mr.J.Ashish, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, the learned Special Government Pleader (T), who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the assessment order passed by the respondent dated 30.10.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner is engaged in the business of retailing gold and diamond jewels; that being an assessee on the file of the respondent under the provisions of the Tamil Nadu Goods and Service Tax Act,2017 has been filing returns promptly by paying tax and availing eligible ITC, but, the respondent, all of a sudden, issued a detailed notice dated 23.01.2023, along with Form DRC-01A citing two discrepancies, to which, the petitioner filed reply dated 06.02.2023, and thereby, sought for 15 days adjournment, the respondent after a period of five months, issued a show cause notice dated 10.07.2024, along with summary of show cause notice citing two discrepancies which was followed by three reminder notices dated 23.07.2023, 07.08.2024, and 16.08.2024, calling upon the petitioner to submit reply and appear for the personal hearing on 06.08.2024, 14.08.2024 and 23.08.2024 respectively; that after a period of five months, the respondent uploaded the show cause notice in the GST Portal during the second week of January, 2024 and passed the impugned order dated 30.10.2024.

3.1 The learned counsel for the petitioner assailed the impugned order on the ground of lack of jurisdiction, and further that the respondent has failed to record reasons for invoking Section 74 of the Act.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that even after issuing DRC-01 A notice, three reminder notices were sent granting opportunity to the petitioner to file their reply and appear for the personal hearing, despite the same, the petitioner failed to file reply nor appeared before the respondent, thus, the petitioner invited the impugned order on their own, and the same cannot be found fault with, if at all, the petitioner is aggrieved by the impugned order, they can very well challenge the same before the Appellate Authority by way of an Appeal. Therefore, he sought for dismissal of the Writ Petition.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the present case, it is seen that even after the issuance of DRC-01 notice, the petitioner has been issued with three reminder notices granting opportunities to the petitioner to file reply and appear before the respondent and on two occasions, the petitioner has requested for time, which were also granted and it is the petitioner, who failed to utilize those opportunities granted, and therefore, it cannot be stated that no fair opportunity was granted to the petitioner nor it can be stated that the petitioner was unaware of the impugned proceedings. Even when this Court posed a question as to whether the petitioner was granted sufficient opportunity, the learned counsel for the petitioner has no say and fairly admitted that they have been granted opportunities thrice.

6.1 Thus, as rightly pointed out by the learned Special Government Pleader for the respondent, the petitioner invited the impugned order on their own volition and the respondent cannot be found fault with. Therefore, this Court is not inclined to interfere with the impugned order by invoking power under Article 226 of the Constitution of India. Hence, the Writ Petition is dismissed. It is needless to state that, it is open to the petitioner to approach the Appellate Authority by way of an Appeal challenging the order passed by the respondent dated 30.10.2024 and agitate their rights in the manner known to law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.02.2025

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To
The Assistant Commissioner (ST)/Inspection,
Chengalpattu Intelligence Division
N.S Garden, Kanchipuram, High Road
Thimmavaram Chengalpattu- 603 101.

Krishnan Ramasamy,J.,

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