IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-02-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 5991 of 2025 and
WMP.Nos.6591 and 6594 of 2025

Lakshmi Auto Diesel Works,
Represented by its Proprietor
S.Kannan,
1A58, Workshop Corner,
Salem Main Road,
Mettur Dam. Petitioner

..Vs..

The State Tax Officer
(also known as the Commercial Tax Officer)
Inspection Cell-2,
Office of the Joint Commissioner (ST),
Intelligence, Commercial Taxes Building,
Hasthampatti, Salem- 636 007. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the files of the Respondent herein in GSTIN/33ASHPK5559R1ZZ/2021-22 in FORM GST DRC-07 proceedings in Order Reference No.ZD3309241144014U dated 18.09.2024 and quash the same.

For Petitioner: Ms.Siri Chandana K
For Respondent: Mrs.K.Vasanthamala
Government Advocate
(Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 18.09.2024 and to quash the same.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

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 respondent issued Show Cause Notice to the Petitioner on 05.06.2024. Since the same was uploaded in the "Additional Notices

and Orders" tab in the GST Portal, the petitioner was unaware of the same and hence could not file its reply. Simultaneously, impugned assessment order 18.09.2024 came to be passed demanding tax along with interest and penalty for the assessment year 2021-2022. The petitioner came to know of the impugned order only after the initiation of recovery proceedings by the respondent.

5.Further, he would submit that impugned order 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 show cause notice followed by reminder notice were issued to the petitioner. Since the petitioner has not filed its reply, impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the "Additional Notices and Orders" column of the GST portal, the petitioner was not aware of the same and hence could not file its reply.

10. 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 order dated 18.09.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 18.09.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional 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

KRISHNAN RAMASAMY.J.,

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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.

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

21.02.2025
(2/5)

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

The State Tax Officer
(also known as the Commercial Tax
Officer)
Inspection Cell-2,
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