



W.P.No.5321 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.5321 of 2025

and

W.M.P.Nos.5896, 5897 and 5901 of 2025

M.S.Distributors,
Represented by its Proprietor,
Mr.Ajay Dugar,
Office at No.2A, Dugar Tower,
Mettukuppam Main Road,
Maduravoyal, Chennai- 600 095.

...Petitioner

..Vs..

1. Office of Assistant Commissioner (State Taxes),
Vangaram Assessment Circle,
Commercial Taxes Building,
Nazratpettai, Chennai-123.
2. Deputy Commissioner (ST),
Poonamallee Zone,
No.4/109, Bangalore Highway,
Varadharajapuram, Chennai-600 123.
3. The Branch Manager,
CITI Bank,
No.2, Club House Road,
Chennai- 600 002.

... Respondents



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Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to impugned order dated 26.04.2024 having Reference No.ZD330424216397H dated 26.04.2024 in (GSTN 33AAFPD0993E1Z4) and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Mr.Kumarpal Chopra
For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the orders dated 06.08.2024 passed by the 1st Respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader(Taxes), takes notice on behalf of the respondents.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 27.12.2023 to the Petitioner and the same was uploaded in the



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"view additional notices and orders" column of the GST portal and hence the

Petitioner was unaware of the said proceedings and therefore they could not file reply to the same. Under such circumstances, the 1st respondent passed the impugned order dated 26.04.2024, demanding tax with penalty for the Assessment Year 2018-19 and the same was also uploaded in the GST portal. The Petitioner came to know of the same only after receipt of the bank attachment notice from the 3rd Respondent. He further submitted that 40% of tax liability has been recovered from the Petitioner.

6. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

7. On the other hand, the learned Additional Government Pleader (Taxes) would submit that though the Show Cause notice followed by reminder notices were issued to the Petitioner but they failed to submit their reply and therefore impugned order came to be passed. As far as the contention of the petitioner with regard to the payment of 40% of tax liability is concerned, the learned Additional Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.



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

9. In the present case, 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 was 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 orders passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside.

(ii) The petitioner shall file their 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 personal hearing to the petitioner and thereafter, pass appropriate orders on merits



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and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) The Respondents are at liberty to recover 40% of the disputed tax liability in case, if no amount has been recovered from the petitioner.

(v) 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 3rd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to recovery of 40% of the tax liability from the petitioner, along with a copy of this order.

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

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

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Krishnan Ramasamy,J.,

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