IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.5530 & 5545 of 2025
and
W.M.P.Nos.6099, 6101, 6106 & 6113 of 2025

M/s.High Valley Insulations Private limited,
Rep by its Director, Mr.Ravi Saraf,
No.83/6, GNT Road,
Erukkancheri, Chennai 600 118

... Petitioner in both petitions

Vs.

1.Deputy State Tax Officer 1,
(Also known as Deputy Commercial Tax Officer),
Kodungaiyur Assessment Circle,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

2.The Assistant Commissioner (ST)(FAC),
Kodungaiyur Assessment Circle,
Room No.203, 2nd Floor,
No.32, Integrated CT Building,
Elephant Gate Bridge Road,
Chennai 600 003

3.The Bank Manager,
Yes Bank, No.3,
India Towers.

... Respondent in both petitions

Prayer in W.P.No.5530 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the 1st respondent herein in his proceeding in GSTIN/33AABCH8027L2ZI/2018-19 dated 24.02.2024 along with the accompanying Form GST DRC-07 with Ref.No.ZD330224158335M dated 26.02.2024 for the Tax Period APR 2018 – MAR 2019 along with rectified proceeding in Form GST DRC-08 with Ref.No.ZD331224054334S dated 06.12.2024 and quash the same.

Prayer in W.P.No.5545 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the 1st respondent herein in his proceeding in GSTIN/33AABCH8027L2ZI/2019-20 dated 22.08.2024 along with the accompanying Form GST DRC-07 with Ref.No.ZD330824196379S dated 22.08.024 for the Tax Period APR 2019 – MAR 2020 and quash the same.

For Petitioner
in both petitions : Mr.K.A.Parthasarathi

For R1 & R2
in both petitions : Mr.T.N.C.Kaushik,
Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the impugned orders 24.02.2024 and 22.08.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent in both the petitions. By consent of the parties, the main writ petitions are 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 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 orders came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, these petitions have been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent and hence, requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 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 orders. Hence, this Court is of the view that the impugned orders were 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. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount. In such view of the matter, this Court is inclined to set aside the impugned orders dated 24.02.2024 and 22.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 24.02.2024 and 22.08.2024 are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount, in each matter, to the respondent within a period of four weeks from today (18.02.2025) and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two 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 orders itself have 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, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% of the disputed tax amount as stated above.

8. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

18.02.2025

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

To

1.Deputy State Tax Officer 1,
(Also known as Deputy Commercial Tax Officer),
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Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

2.The Assistant Commissioner (ST)(FAC),
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Room No.203, 2nd Floor,
No.32, Integrated CT Building,
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KRISHNAN RAMASAMY.J.,

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