IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.5598 of 2025**
**and**
**W.M.P.Nos.6172, 6174 and 6177 of 2025**

U.K.Electricals,
rep. by its Proprietor
Palayam Udayakumar ...Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
Thirukazhukundram Assessment Circle,
No.42, Masoothi Street,
Wahab Nagar, Thirukazhukundram – 603 109.

2. The Deputy Commissioner (ST)
GST -Appeal Chennai -II
No.1, Greams Road, Chennai 600 006.

3. The Deputy Commissioner (ST)
Chengalpattu Zone,
No.26, Abirami Complex,
Mahalaxmi Nagar, Thimmavaram
Chengalpattu – 603 101.

4. The Branch Manager,
State Bank of India,
Kalpakkam Branch
8th Avenue, DAE Township Kalpakkam – 603 102.

...Respondents

**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 of the first respondent passed in GSTIN : 33AAXPU3118J1Z7/2019-20 dated 13.08.2024 and to quash the same as arbitrary.

| | | |
|---|---|---|
| For Petitioner | : | M/s.A.Divya |
| For Respondents 1 to 3 | : | Mrs.K.Vasanthamala<br>Government Advocate (T) |

**<u>Order</u>**

Heard M/s.A.Divya, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) for respondent, who takes notice on behalf of the respondents 1 to 3. 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 order passed by the respondent dated 13.08.2024 and to quash the same.

**3.** The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices/OrdersTab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing; that, however, without hearing the petitioner, the impugned order came to be passed, which suffers from violation of principles of natural justice; that the moment, the petitioner came to know of the impugned order, the petitioner filed an Appeal challenging the same on 18.12.2024, by making pre-deposit of 10%, however, since the delay is beyond the condonable period, i.e. 120 days, petitioner has withdrawn the same on 04.02.2025 as the second respondent will not entertain the same citing the ground of limitation.

**3.1** The learned counsel for the petitioner would submit that grievance of the petitioner is that, due to non-production of documents and non-filing of reply, the impugned order came to be passed and the petitioner has all the materials to substantiate their case, hence, prayed to grant an opportunity to the petitioner to produce the documents before the first respondent. It is also stated that apart from 10% of the disputed tax paid by the petitioner, which is mandatory for filing the Appeal, the petitioner is also ready and willing to deposit remaining15% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

**4.** The learned Government Advocate (T) for the respondents 1 to 3 fairly submitted that since the petitioner has voluntarily come forward to deposit 15% of the disputed tax, the prayer sought for by the petitioner may be considered.

**5.** Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing by an ex parte order, as the same suffers from violation of principles of natural justice.

**6.** Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has already made a pre-deposit of 10% for filing Appeal, and now has voluntarily come forward to deposit remaining 15% of the disputed tax, this Court, in the interest of justice, is inclined to grant one more opportunity to the petitioner, to which course, the learned Government Advocate (T) is also agreable.

**6.1** Accordingly, this Court passes the following orders/directions:-

i) The impugned order dated 13.08.2024 passed by the first respondent is set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

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

**19.02.2025**

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The Deputy Commercial Tax Officer,
   Thirukazhukundram Assessment Circle,
   No.42, Masoothi Street,
   Wahab Nagar, Thirukazhukundram – 603 109.

2. The Deputy Commissioner (ST)
   GST -Appeal Chennai -II
   No.1, Greams Road, Chennai 600 006.

3. The Deputy Commissioner (ST)
   Chengalpattu Zone,
   No.26, Abirami Complex,
   Mahalaxmi Nagar, Thimmavaram
   Chengalpattu – 603 101.

4. The Branch Manager,
   State Bank of India
   Kalpakkam Branch
   8th Avenue, DAE Township
   Kalpakkam – 603 102.

**Krishnan Ramasamy,J.,**

sd

**W.P.No.5598 of 2025**

**19.02.2025**