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W.P.No.5577 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5577 of 2025

and

W.M.P.Nos.6155 & 6156 of 2025

Om Shakthi Drip Irrigation
rep. by its Partner & Authorized Signatory
Devakumar

...Petitioner

Vs.

The Deputy State Tax Officer- I
Office of the Deputy Commercial Tax Officer
Bhavani Assessment Circle
Erode District.

...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 of the impugned proceedings of the respondent herein in GSTIN : 33AACF08837D1ZC/2017-18 dated 11.12.2023 and followed by consequential summary proceedings in Form DRC-07 dated 11.12.2023, for the tax period July 2017-March 2018 and to quash the same as arbitrary.

For Petitioner : Mr.S.Rajasekar
For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)



W.P.No.5577 of 2025

Order

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Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (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 order passed by the respondent dated 11.12.2023 and consequential summary proceedings in Form DRC-07 dated 11.12.2023, for the tax period July 2017-March 2018 and to quash the same.

3. The learned counsel for the petitioner would submit that all the notices/show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned order came to be passed.



W.P.No.5577 of 2025

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. However, it is stated that the petitioner is also ready and willing to deposit 25% 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 respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

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

6. On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the



W.P.No.5577 of 2025

respondent-Department has not taken any steps to serve any notices/communications through any physical mode of service, particularly, by RPAD, and made it available only in the GST Portal, which the petitioner was not aware. Thus, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice. 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, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate (T) is also agreeable, this Court passes the following orders/directions:-

i) The impugned order passed by the respondent dated 11.12.2023 and consequential summary proceedings in Form DRC-07 dated 11.12.2023, for the tax period July 2017-March 2018 are set aside.



W.P.No.5577 of 2025

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily come 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 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

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Index : yes/no

5/7



W.P.No.5577 of 2025

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To

The Deputy State Tax Officer- I
Office of the Deputy Commercial Tax Officer
Bhavani Assessment Circle
Erode District.



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W.P.No.5577 of 2025

Krishnan Ramasamy,J.,

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W.P.No.5577 of 2025

19.02.2025