IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5795 of 2025
and
W.M.P.Nos.6375 & 6376 of 2025

M/s.Ahamed Stores,
Rep by its Proprietor,
Mr.Mohammed Yehiya,
438, Kamaraj Salai, Nazarathpet,
Chennai, Tamil Nadu 600 123

... Petitioner

Vs.

The Deputy State Tax Officer II,
Poonamallee Assessment Circle,
4/109, 3rd Floor, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai, TamilNadu 600 123.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of impugned order Ref.No.ZD330824304206P dated 31.08.2024 Form DRC-07 with connected proceedings Ref.No.GSTIN 33ANQPY1988G1Z8/ 2019-20 dated 30.08.2024 by the respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity of personal hearing to the petitioner.

For Petitioner	:	Mr.Prakash T.C.
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 31.08.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is 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 order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the respondent had already recovered 45% of the disputed tax amount from the petitioner vide bank attachment and the proof with regard to the same was also produced before this Court. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondents 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 order. Therefore, he requested this Court to remit the matter back to the respondent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate 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 order. Hence, this Court is of the view that the impugned order was 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.

8. Further, it was submitted by the learned counsel for the petitioner that the respondent had already recovered 45% of the disputed tax amount from the petitioner. In such view of the matter, this Court is inclined to set aside the impugned order dated 31.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 31.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three 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 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 respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production a copy of this order.

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

20.02.2025

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

To

The Deputy State Tax Officer II,
Poonamallee Assessment Circle,
4/109, 3rd Floor, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai, TamilNadu 600 123.

KRISHNAN RAMASAMY.J.,

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