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W.P.No.5628 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5628 of 2025

and

W.M.P.Nos.6215 & 6216 of 2025

Tvl. Sibi Silks
rep. by its Proprietor
P.Venkatesh

...Petitioner

Vs.

Assistant Commissioner (ST)
Suramangalam Assessment Circle
No.17, Pitchards Road, Salem, 636 007.

...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 respondent dated 19.07.2024 passed in GSTIN : 33ANXPV6384N1ZP/2019-20 and to quash the same as arbitrary.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)



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Order

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Heard Mr.Adithya Reddy, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 19.07.2024 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 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.



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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 Additional Government Pleader (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. 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



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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 but 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, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreeable, this Court passes the following orders/directions:-

i) The impugned order dated 19.07.2024 passed by the respondent is set aside.

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



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copy of this order.

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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.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to pass appropriate orders towards defreeze of the petitioner's bank account forthwith.

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

Krishnan Ramasamy,J.,

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To

Assistant Commissioner (ST)
Suramangalam Assessment Circle
No.17, Pitchards Road, Salem, 636 007.

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