IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-02-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos. 5944 and 5955 of 2025 and
WMP.Nos.6538 and 6539 of 2025

W.P.No.5944 of 2025

Tvl.Balaji Enterprises
No.9, First Street, Baskar Nagar,
Chennai,
Tamil Nadu 600 117. Petitioner

..Vs..

1. STATE TAX OFFICER
Pallavaram Assessment Circle
No.345, 3rd Street,
Integrated Commercial Taxes Building
Nandanam, Chennai-600035.

2. Deputy State Tax Officer (St)(FAC)
Tambaram Zone, Room No.422, 4th Floor,
PAPJM Building, No.1, Greams Road
Chennai 600006. Respondents

W.P.No.5955 of 2025

1. STATE TAX OFFICER
Pallavaram Assessment Circle
No.345, 3rd Street,

Integrated Commercial Taxes Building
Nandanam, Chennai-600035.

2. Deputy State Tax Officer (St)(FAC)
Tambaram Zone, Room No.422, 4th Floor,
PAPJM Building, No.1, Greams Road
Chennai 600006.

3. Indian Bank
Plot A-14, First Street,
Senthuran Colony, Madipakkam
Chennai 600091 Respondents

Prayer in W.P.No.5944 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st Respondent herein in Impugned Order passed in GSTIN:33AAJPB3007B1ZP/2019-20 dated 19.08.2024 and consequential FORM DRC-07 in Ref.No.ZD330824148218A dated 19.08.2024 issued by the 1st Respondent F.Y.2019-20 and quash the same.

Prayer in W.P.No.5955 of 2025: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent to release the attachment on the bank accounts of the petitioner held with 3rd respondent bank.

For Petitioner:	Ms.Siri Chandana K (in W.P.No.5944 of 2025)
For Respondent:	Mr.V.Prashanth Kiran Government Advocate (Taxes) (in W.P.No.5955 of 2025)

COMMON ORDER

Since the issue involved in both these Writ Petitions are one and the same, they are taken up together and disposed of by a common order.

2. These writ petitions have been filed by the petitioner challenging the order of the respondent dated 19.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that in the present case initially the respondent issued notice dated 10.05.2022 to the petitioner intimating certain discrepancies, for which the petitioner submitted its reply on 09.06.2022. Thereafter, Show Cause Notice dated 19.07.2024 came to be issued to the petitioner which is an extract of notice dated 10.05.2022, wherein it was stated that the petitioner shall

file the reply on or before 09.06.2022 and the notice itself was served on 19.07.2024 and hence it is barred by limitation. Subsequently, the respondent passed the impugned order demanding tax along with interest and penalty. Subsequently, the 2nd Respondent issued a recovery notice under FORM DRC-13 on 07.01.2025 to the Indian Bank (3rd respondent in W.P.No.5955 to 2025) to recover the demand amount and freeze the petitioner's account.

4.Further, he would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice and therefore prays to set aside the same.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the impugned order dated 19.08.2024 came to be passed only after considering the reply filed by the petitioner to the notice dated 10.05.2022.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondents and also perused the materials available on record.

8. In the case on hand, initially the 1st respondent have issued notice dated 10.05.2022 to the petitioner for which the petitioner has filed a detailed reply on 09.06.2022. Thereafter show cause notice dated 19.07.2024, came to be issued by the 1st respondent which is an extract of notice dated 10.05.2022 , wherein it is stated that the petitioner shall file the reply on or before 09.06.2022 and the notice itself was served on 19.07.2024 and hence it is barred by limitation.

9. Further, it appears 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 is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 19.08.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 19.08.2024 is set aside and the matter is remanded to 1st the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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 instruct the ***3rd respondent*** to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% of the demand amount by the Petitioner as stated above.

11. With the above directions, these writ petitions are disposed of.

KRISHNAN RAMASAMY.J

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No costs. Consequently, the connected miscellaneous petitions are also closed.

21.02.2025

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