IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.Nos.6718 & 7111 of 2025**
**and**
**W.M.P.Nos.7379, 7381, 7870 & 7872 of 2025**

M.s. Pio Pax Private Ltd.,
rep. by its Director, Mr.J.Nilam Patel ...Petitioner in both W.Ps.

Vs.

The Commercial Tax Officer
Office of the Assistant Commissioner of (ST)
(FAC) Kancheepuram Rural Assessment Circle
C.T.Building, First Floor, Collectorate Campus,
Kancheepuram – 631 501. ...Respondent in W.P.No.6718 of 2025

The Deputy Commercial Tax Officer
Office of the Assistant Commissioner of (ST) (FAC)
Kancheepuram Rural Assessment Circle
C.T.Building, First Floor, Collectorate Campus,
Kancheepuram – 631 501.
...Respondent in W.P.No.7111 of 2025

**Prayer in W.P.No.6718 of 2025 :-**

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 order in Ref.No.ZD3304242068896 dated 26.04.2024 under Section 73 of the TNGST Act, 2017, along with a Summary of Order in Form GST DRC-07 in Ref.No.ZD3304242068896 dated 26.04.2024, in GSTIN :

33AAICP5746R1Z0 on the file of the respondent relating to F.Y.2018-19 and to quash the same.

**Prayer in W.P.No.7111 of 2025 :-**

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 order in Ref.No.ZD330424225426N dated 27.04.2024 under Section 73 of the TNGST Act, 2017 in Form GST DRC 07 in GSTIN : 33AAICP5746R1Z0 dated 27.04.2024, along with Rectification Order dated 27.12.2024, in Ref.No.ZD3312242428351 on the file of the respondent relating to F.Y.2018-19 and to quash the same.

Appearance of the counsel in both W.Ps.

For Petitioner : Ms.N.V.Lakshmi

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

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

Heard Ms.N.V.Lakshmi 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 Petitions are taken up for final disposal at the stage of admission itself.

**2.** The challenge in Writ Petition No.6718 of 2025 is to the order passed by the respondent dated 26.04.2024 and so far as W.P.No.7111 of 2025 is concerned, the same is filed seeking to quash the order dated 27.04.2024 under Section 73 of the TNGST Act, 2017 in Form GST DRC 07 along with Rectification Order dated 27.12.2024, relating to F.Y.2018-19 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 orders, 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 orders came to be passed.

**3.1** Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned orders. Further, it is submitted that the respondent has already recovered a sum of Rs.3,622,878/- and Rs.3,005,858/- in respect of the impugned demand in both Writ Petitions, hence, requested this Court not to impose any condition but to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders without imposing any condition

**4.** The learned Government Advocate (T) for the respondent fairly submitted that since more than 20% of the disputed tax has already been recovered from the petitioner, 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 orders 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 orders without even affording any opportunity of hearing to the petitioner, which are nothing but ex parte orders, as the same suffer from violation of principles of natural justice.

**6.** Thus, once the orders are 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 more than 20% of the disputed tax has already been deducted from the petitioner's ECL this Court is inclined to pass the following orders/directions:-,

i) The impugned order passed by the respondent dated 26.04.2024 along with a Summary of Order in Form GST DRC-07 dated 26.04.2024 in W.P.No.6718 of 2025 and the impugned order passed by the respondent dated 27.04.2024 under Section 73 of the TNGST Act, 2017 in Form GST DRC 07 along with Rectification Order dated 27.12.2024, relating to F.Y.2018-19 in W.P.No.7111 of 2025 are set aside.

ii) Consequently, the matters are remanded to the respondent for fresh consideration.

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

and

iv) 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 Petitions are allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

**12.03.2025**

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Index : yes/no
Neutral Citation : yes/no

To

The Commercial Tax Officer
Office of the Assistant Commissioner of (ST)
(FAC) Kancheepuram Rural Assessment Circle
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**Krishnan Ramasamy,J.,**

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