IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6279 of 2025 &
WMP.Nos.6902, 6904 and 6906 of 2024

S.Remya ... Petitioner

Vs.

1. Deputy Commissioner (ST)
Department of Commercial Taxes and
Registration, Kancheepuram Zone,
1st Floor, Commercial Taxes Building,
Collectorate Campus,
Kancheeepuram- 631 501.

2. The Deputy State Tax Officer,
Oragadam Assistant Circle,
4/109, Third Floor, Bangalore-Chennai Highway,
Varadarajapuram, Nazarathpet, Chennai-123.

3. The Bank Manager,
Standard Charted Bank,
Pantheon Branch,
No.125, First Floor,
Pantheon Road, Ethiraj Salai,
Chennai- 600 008.

4. The Bank Manager,
Indian Bank,
No.4, Mudichur Road,
Mudichur, Chennai-600 048. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the 1st and 2nd respondents in connection with the order bearing reference No.ZD3304241939080 dated 25.04.2024 and the consequential attachment order made by the 1st respondent to the 4th respondent bearing reference No.BA.SI.No.130/33AQAPR0107R1ZT/2024-25/OGM dated 28.01.2025 quash the same.

For Petitioner : Mr.V.Prakash
Senior Counsel
for Mr.S.Gokul

For Respondent : Mrs.K.Vasanthamala
Government Advocate (R1 and R2)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 24.04.2024 passed by the respondents 1 and 2 and the consequential attachment order made by the 1st respondent to the 4th respondent bearing reference

No.BA.SI.No.130/33AQAPR0107R1ZT/2024-25/OGM dated 28.01.2025 quash the same.

2. Mrs.K.Vasanthamala, learned Government Advocate takes notice on behalf of the respondents 1 and 2.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned senior counsel for the petitioner would submit that the petitioner is the registered dealer under the Goods and Services Act, 2017 and involved in the marketing business of home appliances in the name and style of M/s.JARS enterprises, since November 2018. While so, due to COVID-9 lockdown and other reasons the petitioner suffered huge loss and hence wound up her business on March 2023. Therefore, she submitted an application in the GST Portal on 26.042023 for cancellation of registration, pursuant to which the registration was also cancelled on 23.05.2023. Thereafter, the petitioner did not access the GST portal. In the meanwhile, show cause notice dated 02.08.2023 as

well as DRC 01 notice dated 10.11.2023 came to be issued to the petitioner and the same were uploaded in the GST Portal. Since the petitioner has not accessed the GST portal, after the cancellation of her registration, she was not aware of the aforesaid notices and hence failed to submit reply. Thereafter, impugned order dated 25.04.2024 came to be passed and the same was also uploaded in the GST portal. The petitioner came to know of the said impugned order only after the receipt of the E-mail from the respondents 3 and 4 regarding the attachment of her savings bank accounts.

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

6. On the other hand, the learned Government Advocate (Taxes) appearing for the respondents 1 and 2 would submit that initially show cause notice dated 02.08.2023 followed by DRC 01 notice dated 10.11.2023 was issued to the petitioner by uploading in the GST portal.

Since the petitioner has not filed any reply, reminder notice dated 23.02.2024 was issued, despite the same the petitioner had not filed the reply and thereafter impugned order came to be passed and therefore principles of natural justice has been duly complied with.

7. Heard both sides. Perused the records.

8. In the present case,admittedly GST registration of the petitioner was cancelled on 23.05.2023 and therefore the petitioner had not accessed the GST portal. But the respondents have uploaded all the notices and the impugned order in the GST Portal and hence the petitioner was unaware of the same. He came to know of the impugned order only after receipt of attachment notices from the bank. Once the GST registration was cancelled, the authorities concerned ought to have send the communications by way of E-mail or by way of registered post, but the respondents without doing so, simply uploaded in the GST portal. Therefore this Court is of the view that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order.

9. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice. Hence, this Court is of the view that the impugned order was 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 24.04.2024 passed by the respondents. Accordingly, this Court passes the following order:-

(i) The impugned order dated 24.04.2024 is set aside and the matter is remitted back to the authority 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 a 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 accounts of the Petitioner cannot survive any longer and hence, it is lifted. As a sequel, the Respondents 1 and 2 are directed to instruct the respondents 3 and 4 to release the attachment on the bank account of the petitioner, immediately upon the production of a copy of this order.

10. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

21.02.2025

Speaking/Non-speaking order
Index : Yes / No

Neutral Citation : Yes / No
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Note: Issue order copy on 25.02.2025

To

1. The Deputy Commissioner (ST)
   Department of Commercial Taxes and
   Registration, Kancheepuram Zone,
   1st Floor, Commercial Taxes Building,
   Collectorate Campus,
   Kancheeepuram- 631 501.

2. The Deputy State Tax Officer,
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KRISHNAN RAMASAMY.J.,

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