IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6276 of 2025
and
W.M.P.Nos.6900 & 6901 of 2025

Tvl. Sai TV.
Rep. by its Partner, Mr.P.Balaji. ...Petitioner

Vs.

1. The State Tax Officer,
   (also known as Commercial Tax Officer)
   Kallakurichi Assessment Circle
   Station No.33/1, Nepal Street,
   Kallakurichi, T.N.

2. The Deputy State Tax Officer
   GST Inspector,
   Office of the Deputy Commissioner (ST)
   Integrated Commercial Taxes Building,
   No.103/5 Nepal Street,
   Kallakurichi – 606 202.

3. The Branch Manager,
   HDFC Bank, Kallakurichi – 606 202. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of for the records on the files of the 1st respondent herein in Order No 33ADRFS9344P1Z2/2023-24 dated 19.10.2024 and consequential order passed by the 2nd Respondent in GSTIN 33ADRFS9344P1Z2 dated 31.01.2025 and quash the same and consequently, direct the 2nd respondent to lift the attachment of the petitioners Bank Account No.50200092993640 wrongly mentioned as 50100149173011 held by the petitioner in the 3rd respondent bank and pass any such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case and render justice.

For Petitioner : Mr.A.N.R.Jayaprathap
For Respondents 1 & 2 : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.A.N.R.Jayaprathap learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T), who takes notice on behalf of the respondents. 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 first respondent dated 19.10.2024 and the consequential order passed by the second respondent dated 31.01.2025 and to direct the second respondent to lift the attachment of the petitioner's bank account held by the petitioner in the third respondent/Bank.

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.

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. Further, it is stated that the respondent-Department, in pursuance of the impugned order, already initiated recovery proceedings against the petitioner and 14.5% of the disputed tax has been recovered. Therefore, the learned counsel submitted that the petitioner, without prejudice to the contentions raised in this Writ Petition, is willing to file reply and furnish the documents, and hence, prayed this Court is to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Special Government Pleader (T) for the respondents 1 and 2 would submit that the petitioner has been afforded with an opportunity of personal hearing five time, however, the petitioner failed to utilize the same. However, the learned Government Pleader fairly submitted that since 14.5% 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 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 appear for the personal hearing. However, the first respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing by 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, considering the fact that 14.5% of the disputed tax has already been recovered from the petitioner, by virtue of recovery proceeding, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first respondent dated 19.10.2024 is set aside.

ii) Consequently, the matter is remanded to the first 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.

iv) Thereupon, the first 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.

v) So far as the bank attachment order is concerned, once the impugned order is set aside, attachment order can no longer survive and it has to be given a go-by. That apart, already 14.5% of the disputed tax has already been recovered from the petitioner. Hence, the respondent-Department is directed to issue appropriate directions on the petitioner's banker, viz. the third respondent herein towards de-freezure 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.

24.02.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The State Tax Officer,
   (also known as Commercial Tax Officer)
   Kallakurichi Assessment Circle
   Station No.33/1, Nepal Street,
   Kallakurichi, T.N.

2. The Deputy State Tax Officer
   GST Inspector,
   Office of the Deputy Commissioner (ST)
   Integrated Commercial Taxes Building,
   No.103/5 Nepal Street,
   Kallakurichi – 606 202.

3. The Branch Manager,
   HDFC Bank, Kallakurichi – 606 202.

Krishnan Ramasamy,J.,

sd

W.P.No.6276 of 2025

24.02.2025