IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.02.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6835 of 2025
and
W.M.P.Nos.7532 & 7533 of 2025

Tvl Excellent Freight Service
Represented by its Partner B.Baskar 11/21
Ground Floor Mahalinga Chetty Street
Mahalingapuram Nungambakkam, Chennai -600 034. Petitioner

Vs.

The DEPUTY STATE TAX OFFICER,
VALLUVARKOTTAM ASSESSMENT CIRCLE ,
NO.1, 6TH FLOOR, PAPJM
(ANNEXURE) BUILDING,
GREAMS ROAD, CHENNAI-600 006. ...Respondent

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 relating to detailed impugned order dated 24.04.2024 along with the summary order bearing Reference No. ZD3304241815769 dated 24.04.2024 passed by the respondent and to quash the same as the same being arbitrary passed in violation of the principles of natural justice.

For Petitioner : Mr.P.Gowtham
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.P.Gowtham, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (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 24.04.2024 along with the summary order dated 24.04.2024 passed by the respondent 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.

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 Government Advocate (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 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 Government Advocate (T) is also agreable, this Court pass the following orders/directions:-

i) The impugned order passed by the respondent dated 24.04.2024 along with the summary order dated 24.04.2024 are 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 came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

and

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.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.02.2025

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To

The DEPUTY STATE TAX OFFICER,
VALLUVARKOTTAM ASSESSMENT CIRCLE ,
NO.1, 6TH FLOOR, PAPJM
(ANNEXURE) BUILDING,
GREAMS ROAD, CHENNAI-600 006.

<u>Krishnan Ramasamy,J.,</u>

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W.P.No.6835 of 2025

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