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W.P.No.6940 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6940 of 2025
& W.M.P.Nos.7654 & 7657 of 2025

M/s.Cargo Care Shipping and Forwarding (India) Pvt. Ltd.,
Rep by its Director, Mr.Saji Thomas,
Kalarickal House, Puthupally Vaikom,
Kottayam, Kerala 686 001

... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Kilpauk Division, Chennai II,
Chennai Central, Greams Road,
Chennai 600 006

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned in Form DRC 07 ref No. ZD330824217174K dated 23.08.2024 along with the attachment to DRC 07 pertaining to the financial year 2019-20 passed by the respondent and quash the same as the same being arbitrary and direct the respondent to refund the excess payments recovered from the petitioner



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For Petitioner : Ms.N.Asmitha

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 23.08.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition



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has been filed.

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4. Further, she would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, she requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the cases on hand, it is clear 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 was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 23.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 23.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner



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shall pay 25% of disputed tax amount to the respondents within a period of four weeks from today (28.02.2025) and the setting aside of the impugned order will take effect from the date of payment of the said amount.

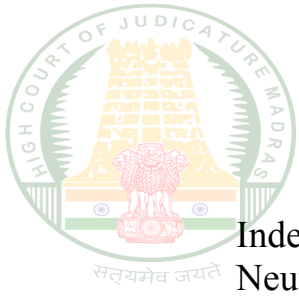
(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

28.02.2025

Speaking/Non-speaking order



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Index : Yes / No

Neutral Citation : Yes / No

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KRISHNAN RAMASAMY.J.,

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To

The Deputy Commercial Tax Officer,
Kilpauk Division, Chennai II,
Chennai Central, Greaves Road,
Chennai 600 006

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