IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6884 & 6889 of 2025
and
W.M.P.Nos7584, 7585, 7588 & 7589 of 2025

M/s.RK Invent Weld Automation Private Limited
(Formerly Know as Invent Weld Automation Private Limited)
Represented by its Managing Director Mr. G. Venkatesh Babu
.. Petitioner in both W.Ps.

Vs

1 The Deputy State Tax Officer II
No.4/109 1st floor Bangalore Chennai Highway
Varadarajapuram Nazarathpet Chennai
600123

2 The Assistant Commissioner (ST) (FAC)
Kuntratur Assessment Circle No.4/109
1st Floor Bangalore Chennai Highway
Varadarajapuram Nazarathpet Chennai 600 123.

3 Deputy Commissioner (ST)
Kanchipuram Zone 1st Floor Commercial Taxes
Building Collectorate Campus Kanchipuram
631 501

..Respondents in both Wps.

Prayer in W.P.No.6884 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 pertaining to the impugned assessment order dated 28.08.2024 issued in GSTIN 33AADC18075M1Z6/2019-20 passed by the second respondent and quash the same.

Prayer in W.P.No.6889 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 pertaining to the impugned recovery notice dated 07.02.2025 issued in GSTIN 33AADC18075M1Z6/2024-25 passed by the third respondent and quash the same.

For Petitioner in both Wps. : Mr.R.Sethu Prabakaran

For Respondents in both Wps. : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

COMMON ORDER

Heard Mr.R.Sethu Prabakaran learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) for the respondents, who takes notice on behalf of the respondents. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in the Writ Petition in W.P.No.6884 of 2025 is to the assessment order dated 28.08.2024 passed by the second respondent and quash the same.

2.1 The challenge in the Writ Petition in W.P.No.6889 of 2025 is to the recovery notice dated 07.02.2025 passed by the third respondent and 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 respondents 1 and 2 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 respondents 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 passes the following orders/directions:-

i) The impugned order passed by the respondent dated 28.08.2024 and the consequential recovery notice dated 07.02.2025 are set aside.

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

v) Thereupon, the second 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.

and

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to pass appropriate orders towards de-freezure of the petitioner's bank account forthwith.

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

27.02.2025

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Index : yes/no
Neutral Citation : yes/no

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

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