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.7188 of 2025
& W.M.P.Nos.7980, 7981 & 7982 of 2025

Tvl.Leela Cool Home,
Rep by its Proprietor Mr.Mettur,
Arthanari Kumaravelu,
No.3/20, Alampalayam Post,
Pallipalayam, Erode,
Tamil Nadu 638 008,
GSTIN 33AEEPK4211p1zk

... Petitioner

Vs.

1.The Deputy State Tax Officer,
Officer of the Deputy Commercial Tax Officer,
Pallialyam Assessment Circle,
Erode, Tamil Nadu.

2.The Assistant Commissioner (ST)(FAC),
Pallipalayam Assessment Circle,
100/13, Pavadi Sengunthar Trust Building,
SSD Road, Tiruchengode 637 211

3.The Branch Manager,
United Bank of India,
No.47, Tiruchengode Road,
Pallipalayam, Tamil Nadu.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 1st Respondent in its impugned proceedings in GSTIN 33AEEPK4211P1ZK/2020-2021 dated 07.08.2023 along with the Form DRC-07 bearing Reference No. ZD330823034864A dated 07.08.2023 for the period 2020-2021, and quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate for R1 & R2

<u>ORDER</u>

This writ petition has been filed challenging the impugned order dated 07.08.2023 passed by the 1st respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents 1 and 2. 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 1st 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 has been filed.

4. Further, she would submit that the petitioner is willing to pay 25% of the disputed tax amount to the 1st 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 respondents 1 and 2 would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to

the passing of impugned order. Therefore, she requested this Court to remit the matter back to the 1st respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 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 1st respondent. In such view of the matter, this Court is

inclined to set aside the impugned order dated 07.08.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 07.08.2023 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner 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.

(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 account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the 3rd respondent to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

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
Index : Yes / No
Neutral Citation : Yes / No
nsa

To
1.The Deputy State Tax Officer,
Officer of the Deputy Commercial Tax Officer,
Pallialyam Assessment Circle,
Erode, Tamil Nadu.

2.The Assistant Commissioner (ST)(FAC),
Pallipalayam Assessment Circle,
100/13, Pavadi Sengunthar Trust Building,
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KRISHNAN RAMASAMY.J.,

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