IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.7147 of 2025
and
W.M.P.Nos.7929 and 7930 of 2025

Tvl.AL-WOODLAND TRADERS
(GSTIN:33AYMPM8491P5ZB)
Represented by its Proprietor Mohamed Waseem,
17-A Ettines Road, Ooty,
The Nilgiris-643001. ...Petitioner

..Vs..

The State Tax Officer,
Udhagai South assessment Circle,
Uthagamandalam-643001. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned GST DRC 07 bearing Reference No.ZD3303240399568 dated 08.03.2024, issued by the Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Ms.K.Vasanthamala
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 08.03.2024 passed by the Respondent and to quash the same.

2. Ms.K.Vasanthamala, learned Government Advocate(Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that respondent issued show cause notice dated 25.12.2023 followed by reminders dated 05.01.2024, 20.01.2024 and 29.01.2024 and since the same were uploaded in the "view additional notices/orders" of the GST portal, the Petitioner was unaware of the said proceedings and therefore they could not file reply to the same. Under such circumstances, the respondent passed the impugned order dated 08.03.2024, demanding tax along with interest and penalty for the Assessment Year 2021-22 and the same was also uploaded in the GST portal. The Petitioner came to know of the after coming to know that their bank account has been freezed. He further submitted that entire amount of disputed

tax liability has been recovered from the petitioner.

6. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same

7. On the other hand, the learned Government Advocate (Taxes) would submit that though the show cause notice followed by reminder notices were issued to the Petitioner they failed to submit their reply and therefore impugned order came to be passed. As far as the contention of the petitioner with regard to the payment of tax liability is concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice along with reminder notices were uploaded in the GST portal, the petitioner is unaware of the same and hence could not file its reply. Further, it appears 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 and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned orders passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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 orders itself have been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner, *if any* cannot survive any longer and hence, it is lifted. As a sequel, the respondents are directed to inform the concerned banck release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to recovery of the tax liability from the petitioner, along with a copy of this order.

(v) The Respondent is at liberty to recover disputed tax liability in case, if no amount has been recovered from the petitioner, as contended by the counsel for the petitioner.

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

03.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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<u>Krishnan Ramasamy,J.,</u>

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To

The State Tax Officer,
Udhagai South assessment Circle,
Uthagamandalam-643001.

W.P.No.7147 of 2025

03.03.2025