IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7250 of 2025
and
W.M.P.Nos.8062 and 8063 of 2024

Tvl.K.R.R.Super Market
Rep. by its Partner Ranjithkumar Ravichandran
33, Punugeswarar North Street, Koranadu,
Mayiladuthurai, Nagapattinam,
Tamil Nadu- 609 001
GSTIN:33AAQFK4662C1ZD ...Petitioner

Vs.

The State Tax Officer (ST)
O/o the commercial Tax officer,
Mayiladuthurai Assessment Circle,
Mayiladuthurai, Tamil nadu. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the Respondent herein in its Impugned Order passed by the Respondent in GSTIN- 33AAQFK4662C1ZD/2021-22 dated 19.09.2024 along with the Consequential Order U/s 74 of the CGST Act, 2017 with the Ref. No.-

ZD330924127216H dated 19.09.2024 for the Tax Period 2021-22 and quash the same.

For Petitioner : Ms.R.Hemalatha

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

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ORDER

Heard Ms.R.Hemalatha, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), who takes notice on behalf of the respondent. With consent of both sides, 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 orders dated 19.09.2024 passed by the respondent.

3. The learned counsel for the petitioner would submit that the respondent issued show cause notice to the petitioner on 07.05.2024 and subsequently passed the impugned orders on 19.09.2024, demanding tax along with interest and penalty within six months, which is against the provisions of Section 74(2) of the CGST Act, 2017.

4. The learned counsel would further submit that the impugned order suffers from violation of principles of natural justice and are liable to be set aside, as the petitioner has not been afforded with any opportunity of personal hearing. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned order, the petitioner is agreeable to pay 25% of the disputed tax amount and hence, prayed for appropriate orders.

5. The learned Additional Government Pleader (Taxes) for the 1st respondent fairly submitted that if the petitioner is ready and willing to deposit 25% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. In the present case, 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 dated 19.09.2024 passed by the respondent.

8. Accordingly, this Court passes the following order:

(i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order 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 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 has been set aside, this Court is of the opinion that the attachment, ***if any***, made on the bank account of the Petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, if petitioner gives a letter to the concerned bank for transfer of 25% amount towards disputed tax into the account of the respondent-Department, along with a copy of this order.

This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.03.2025

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Index : yes/no
Neutral Citation : yes/no

Krishnan Ramasamy,J.,

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To

The State Tax Officer (ST)
O/o the commercial Tax officer,
Mayiladuthurai Assessment Circle,
Mayiladuthurai, Tamil nadu.

W.P.No.7250 of 2025

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