IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7048 of 2025
and
W.M.P.Nos.7772 & 7777 of 2025

Ganga & Co.
rep. by its Managing Partner,
Uthirasami Subramani.

...Petitioner

Vs.

The State Tax Officer (INT)
(also known as the Commercial Tax Officer)
Adj and Legal, Legal and Revision II Intelligence,
Integrated Commercial Taxes Building,
Room No.207, 2nd Floor, Pitchards Road,
Hasthampatti, Salem -636 007. ...Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the files of the respondent herein in GSTIN/33AAHFG2483N2Z3/2019-20 in FORM GST DRC-07 proceedings in Order Reference No. ZD331223261046U dated 29.12.2023 and to quash the same.

For Petitioner : M/s.K.Siri Chandana

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.K.Siri Chandana learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, 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 order passed by the respondent dated 29.12.2023 and to 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. Further, it is submitted that the respondent has already deducted 25% of the disputed tax amount from the petitioner's ECL, hence, requested this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

4. The learned Government Advocate (T) for the respondent fairly submitted that since 25% of the disputed tax has already been deducted from the petitioner's ECL 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 respondent 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, considering the fact that 25% of the disputed tax has already been deducted from the petitioner's ECL this Court is inclined to pass the following orders/directions:-,

i) The impugned order passed by the respondent dated 29.12.2023 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

and

iv) Thereupon, the 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.

7. In the result, the Writ Petition is 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

To
The State Tax Officer (INT)
(also known as the Commercial Tax Officer)
Adj and Legal, Legal and Revision II Intelligence,
Integrated Commercial Taxes Building,
Room No.207, 2nd Floor, Pitchards Road,
Hasthampatti, Salem -636 007.

Krishnan Ramasamy,J.,

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