IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7631 of 2025
and
W.M.P.Nos 8558 & 8561 of 2025

M/S.Equvera Applied Automati
on Rep by its Prop. Tharani Sarala
H 22-24 4th Floor HIG Block-12,
TNHB Nolambur, Chennai-600 095. [PETITIONER]

Vs

The Assistant Commissioner (ST)(FAC)
Nolambur Assessment circle
Integrated Commercial Taxes Building
3rd Floor No. 353 Nandanam Chennai- 600 035.

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records relating to the Order of Rejection of application for rectification in Reference No.ZD330125118196Q in GSTIN.33BJJPS3934A2ZD/2019-20 dated 13-1-2025 confirming the Order in Reference No.ZD3307243585835 in GSTIN/ID. 33BJJPS3934A2ZD dated 31-7-2024 passed by the respondent quash the same and further direct the respondent to grant opportunity of being heard.

For Petitioner : Mr.M.A.Mudimannan

For Respondent : Ms..Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard Mr.M.A.Mudimannan, counsel appearing for the petitioner and Ms..Amirta Poonkodi Dinakaran, 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 13-1-2025 in confirming the Order in Reference dated 31-7-2024 and to quash the same and further direct the respondent to grant opportunity of being heard.

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 dated 31.07.2024 came to be passed; that though the petitioner filed Application seeking for rectification of the order dated 31.07.2024, the same was rejected by the impugned order dated 13.01.2025.

3.1 Therefore, the learned counsel would submit that the impugned order dated 31.07.2024 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 dated 31.07.2024 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 respondent 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. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. 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 dated 31.07.2024 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 dated 31.07.2024 without even affording any opportunity of hearing to the petitioner, which is nothing but ex parte order, as the same suffers from violation of principles of natural justice.

6.1 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 is inclined to pass the following orders/directions:-

i) The impugned order of rejection of the rectification application dated 13.01.2025 and the order dated 31.07.2024 passed by the respondent are set aside.

ii) Consequently, the matter is remanded to the 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 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.

10.03.2025

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To
The Assistant Commissioner (ST)(FAC)
Nolambur Assessment circle
Integrated Commercial Taxes Building
3rd Floor No. 353 Nandanam Chennai- 600 035.

Krishnan Ramasamy,J.,

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