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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.7202 of 2025
and
W.M.P.Nos.8001, 8004 and 8007 of 2024

1.Tvl.Adithyas Chettinadu Restaurant
Represented by its First Partner,
Thiru.Chakrapani Veerasamy.

2. Jayanthi Chakrapani
3. Ashok Chakrapani ...Petitioners

Vs.

1. State Tax Officer,
Tambaram Assessment Circle,
Integrated Building for Commercial Tax
& Registration Department,
Nandanam, Chennai- 600 035.

2. The Manager,
Federal Bank Limited,
No.58, Kakkan Street,
West Tambaram Branch,
Tambaram, Chennai-600 045. ...Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the impugned assessment order on the file of respondent vide GSTN 33ABIFA3533H1ZR / 2019-20 dated 14.08.2024 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2019-20 after giving full and fair opportunity to the petitioner as well as revocation of the blocking of access to funds from petitioners Partners Savings Bank Account 1. Chakrapani Veerasamy Federal bank A/c. No 15360200006881 2, C. Jayanthi Federal Bank A.c 15360200006717 and 3. C.Ashok -Federal Bank A/c No 15360200006841 with the second respondent.

For Petitioner	:	Mr.B.Vincent Praveen
For Respondent	:	Mr.T.N.C.Kaushik Additional Government Pleader (T)

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ORDER

Heard Mr.B.Vincent Praveen Kumar, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), who takes notice on behalf of the respondents. With consent of both sides, the main Writ Petition is taken up for final disposal at the stage of admission itself.

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2. The challenge in this Writ Petition is to the order dated 14.08.2024 passed by the 1st respondent.

3. The learned counsel for the petitioner would submit that the show cause notice/communication and the reminders, which culminated in the impugned order were merely uploaded in the "other notices" in the GST Portal, and since the petitioner's restaurant was closed during Covid-19 pandemic due to heavy loss, the petitioner was not aware of the show cause notice as well as the reminders being uploaded in the GST Portal, therefore, they had no occasion to peruse the said notices and give reply; that only when the petitioner's account along with his partners savings bank account were closed, the petitioner came to know about the impugned order, and hence, before this Court by way of present Writ Petition seeking for aforesaid prayer.

4. The learned counsel would 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

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hearing. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned orders, the petitioner is agreeable to pay 25% of the disputed tax amount, for which sake, the bank attachment has to be lifted 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

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such view of the matter, this Court is inclined to set aside the impugned order dated 18.12.2023 passed by the respondent.

8. Intervening at this stage, the learned counsel for the petitioner would submit that the petitioner would give a letter to the Bank towards transfer of amount to an extent of 25% of the disputed tax to the respondent-Department, hence, sought for a direction on the Bank to go by the letter of the petitioner.

9. Accordingly, this Court passes the following order:

(i) The impugned order dated 14.08.2024 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 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

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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) If the petitioner gives a letter to the concerned bank i.e, the 2nd respondent for transfer of 25% amount towards disputed tax into the account of the respondent-Department, along with a copy of this order, the order of attachment passed by the said bank is ordered to be lifted.

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

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To

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Krishnan Ramasamy,J.,

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