IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.7355 of 2025
and
W.M.P.Nos.8208, 8211 and 8214 of 2025

Errigineni Avinash
Proprietor of M/s. RAVR Enterprises
Rep by his Power Agent Sambath Kumar,
Having office at Plot No. 37, Perungudi,
Venkateshwara Nagar Annexe,
Chennai - 600096 .... Petitioner

Vs

1. The State Tax Officer (ST) (FAC)
Sholinganllur Assessment Circle,
South III, Room No. 240, 2nd Floor,
The Integrated Building for
Commercial Taxes and Registration
Department, South Tower,
Nandanam, Chennai- 035.

2.The Deputy Commercial Tax Officer
Sholinganallur Assessment Circle, South III, Room No. 241, 2nd Floor, The Integrated Building for Commercial Taxes and Registration Department, South Tower, Nandanam, Chennai - 600 035.

3.The Branch Manager
ICICI Bank Limited
Prince Info Park-No;10-Old,
Mahabalipuram Road-Perungudi,

Chennai-600096(Branch) ... Respondents

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 call for the records pertaining to the impugned order dated 29.08.2024 in GSTIN 33AWXPA6138J1Z8 and consequential order under Section 73 and summary of the order in form GST DRC -07 having Reference No. ZD330824269793W dated 29.08.2024 for the tax period April 2019 to March 2020 relating to Financial year (FY) 2019- 20 issued by the 1st Respondent and quash the same .

For Petitioner : Ms.T.V.Muthu Abirami

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (Taxes)

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ORDER

The challenge in this writ petition is to the orders dated 29.08.2024 passed by the 1st Respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader(Taxes), takes notice on behalf of the respondents 1 and 2.

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 the 2nd respondent issued show cause notice dated 30.05.2024 and the same was uploaded in the GST portal, for which the petitioner filed its detailed reply on 02.07.2024 along with supporting documents. But the 1st respondent without considering the reply has filed passed the impugned assessment order along with summary order dated 29.08.2024 demanding tax along with interest and penalty for the Assessment Year 2019-20 and the same was also uploaded in the GST portal. Since the petitioner's accountant had not informed about the same to the petitioner, the petitioner was not aware of the same. The petitioner came to know of the impugned orders from the bank officials only after the attachment of their bank account. He further submitted a sum of Rs.4,05,841/- has been recovered from the Electronic Credit Ledger of the petitioner.

5. 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.

6. On the other hand, the learned Special Government Pleader (Taxes) would submit that the 1st respondent, only after considering the reply filed by the petitioner has passed the impugned order. As far as the contention of the petitioner with regard to the payment of tax liability to the tune of Rs.4,05,841/ is concerned, the learned Special Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability (less the amount already recovered) in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) appearing for the Respondents 1and 2 has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondents 1 and 2 and also perused the materials available on record.

9. In the present case, the petitioner states that reply filed by the petitioner was not considered by the 1st respondent. Further, it appears that no

opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were 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 1st respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside. and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall shall pay ***25% of disputed tax (after deducting the amount already recovered)*** to the Respondents concerned 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 respondents concerned 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, cannot survive any longer and hence, it is lifted. As a sequel, the 3rd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to aforesaid payment made by the petitioner, along with a copy of this order.

(v) The Respondent is at liberty to recover entire 25% of disputed tax liability in case, if no amount has been recovered from 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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Krishnan Ramasamy,J.,

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