IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.7317 of 2025
and
W.M.P.Nos.8146 and 8147 of 2025

Tvl.Mahaveerya Exports,
Rep by its partner R.Sakthi Samundeeswari,
1st Floor, No.36/2, Thirumoorthi Nagar,
Samundipuram West,
Tiruppur 641 603. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
North 1 Circle,
Commercial Tax Department,
Tiruppur 641603 ...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 pertaining to the impugned order passed by the respondent in GSTIN: 33AAHFM0084F1ZM/2022-23, dated 30.09.2024 and quash the same.

For Petitioner : Mr.T.Bashyam

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

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ORDER

Heard Mr.T.Bashyam, 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 order dated 30.09.2024 passed by the respondent.

3. The learned counsel for the petitioner would submit that the show cause notice/communication, which culminated in the impugned order were merely uploaded in the GST Portal, and since the petitioner's auditor dealt with GST portals, the petitioner was not aware of the show cause notice being uploaded in the GST Portal, therefore, they had no occasion to peruse the said notice and give reply. The petitioner came to know of the impugned order belatedly.

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 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 Government Advocate (Taxes) appearing for the 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 order dated 30.09.2024 passed by the respondent.

8. Accordingly, this Court passes the following order:

(i) The impugned order dated 30.09.2024 is 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
(4/4)

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Index : yes/no
Neutral Citation : yes/no

Krishnan Ramasamy,J.,

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To

The Assistant Commissioner (ST) (FAC)
North 1 Circle,
Commercial Tax Department,
Tiruppur 641603.

W.P.No.7317 of 2025

03.03.2025