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

W.P.No.8159 of 2025
and
W.M.P.Nos.9140 & 9141 of 2025

Meenakshi Construction
Represented by its proprietor Mr. Harsh Goyal
No.4/ 1153 ground floor Banjanai Koil Street
Venkatesapuram Arakonam,
Vellore 631 002.

...Petitioner

Vs

THE DEPUTY STATE TAX OFFICER -2 (FAC)
ARAKKONAM ASSESSMENT CIRCLE
COMMERCIAL TAXES BUILDING,
WARD B BLOCK 25 TS NO.22
GANDHI ROAD ARAKKONAM-631 000

..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 of the respondent issued in impugned order in GSTIN order passed by the respondent in GSTIN. 33AAIFM9700B2ZN/ 2022-23 along with DRC-07 vide reference number ZD3305242671598 dated 28.05.2024 quash the same as erroneous arbitrary and barred by limitation

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, 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 along with DRC-07 dated 28.05.2024 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 stated that the respondent-Department, in pursuance of the impugned order, already initiated recovery proceedings against the petitioner and a sum of Rs.1,50,294/- from and out of the total demand of Rs.3,53,820/- has been recovered. Therefore, the learned counsel submitted that the petitioner, without prejudice to the contentions raised in this Writ Petition, is willing to file reply and furnish the documents, and hence, prayed this Court is to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since a sum of Rs.1,50,294/- has already been recovered from the petitioner, 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 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 by an 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, considering the fact that out of total demand of Rs.3,53,820/-, a sum of Rs.1,50,294/ - has already been recovered from the petitioner by virtue of recovery proceeding, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order along with DRC-07 dated 28.05.2024 passed by the respondent 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.

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.

10.03.2025

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To
THE DEPUTY STATE TAX OFFICER -2 (FAC)
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Krishnan Ramasamy,J.,

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