IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10329 of 2025
and
W.M.P.Nos.11641, 11642 and 11643 of 2025

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

..Vs..

1. 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.

2. The State Tax Officer (ST)(FAC)
Sholinganallur Assessment Circle, South III,
Room No.240, 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 pertaining to the impugned order dated 24.08.2024 in GSTIN 33AWXPA6138JH1Z8 and consequential order under Section 73 and summary of the Order in Form GST DRC-07 having Reference No.ZD3308242223997 dated 24.08.2024 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 : Mr.T.V.Muthu Abirami

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

ORDER

The challenge in this writ petition is to the orders dated 24.08.2024 passed by the 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 show cause notice dated 30.05.2025 was issued to the petitioner. Since the GST portal of the petitioner reflected some error, the petitioner could not file its reply online and therefore sent a reply dated 02.07.2024 along with required documents. But the 1st respondent without considering the said reply has passed the impugned order along with summary order dated 24.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020. Since, the accountant of the petitioner failed to inform about the impugned order to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the impugned order only after the attachment order passed by the 1st respondent.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. He further submitted that 50% of the disputed tax liability has already been recovered from the petitioner. Hence he prays to set aside the impugned orders.

6. The Special Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice was issued to the Petitioner, the petitioner failed to submit its reply and hence assessment order as well as the summary order came to be passed. As far as the contention of the petitioner with regard to the payment of 50% tax liability is concerned, the learned Special Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, though the petitioner filed reply to the show cause notice through post, the same was not considered by the respondent before passing the assessment order and the impugned order was passed as if there was no reply filed by the petitioner.

9. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the

petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

10. In the case on hand, the impugned orders came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is 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 assessment order along with summary order dated 24.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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 order itself has 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 the payment of 25% as stated above.

(v) The Respondents are at liberty to recover 25% of disputed tax liability in case, if no amount has been paid by the petitioner as stated by the learned counsel for the petitioner.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

24.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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Krishnan Ramasamy,J.,

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