IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.9849 of 2025
& W.M.P.Nos.11061 to 11063 of 2025

Jayagopal Rathish,
Proprietor, KRC Logistics,
Office at 1/85, GST Road,
Singaperumal Koil,
Kanchipuram 603 204

... Petitioner

Vs.

1.The Deputy Commissioner (ST)(GST),
Chennai II, Greams Road,
Chennai 600 006

2.The Commissioner of GST and Central Excise,
GST Office, Chengalpattu Division,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu.

3.The State Tax Officer,
Chengalpattu GST Assessment Circle,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent relating to the order in Form GST DRC-07 dated 30.04.2024 in Ref.No.ZD330424252183Q for the FY 2018-19 and dated 16.08.2024 in Ref.No.ZD3308241437812D for FY 2019-20 passed by 3rd respondent and quash the same as illegal and arbitrary and further, direct the respondents to unfreeze the bank account of the peittioner to enable the resumption of normal business activities.

For Petitioner	:	Mr.A.Kanagaran
For Respondent	:	Ms.Amitra Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned orders dated 30.04.2024 and 16.08.2024 passed by the 3rd respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the

parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the show cause notice, pertaining to the assessment year 2018-19, was issued by the respondent on 28.12.2023, for which, the reply was filed by the petitioner on 24.01.2024. However, without considering the said reply, the impugned order came to be passed by the respondent on 30.04.2024. Subsequently, another show cause notice dated 22.05.2024, pertaining to the assessment year 2019-20, was uploaded by the respondent in the GST Common portal. Since the petitioner was not aware of the said notice, they failed to file their reply within the time. Under these circumstances, the impugned order dated 16.08.2024 came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent for each assessment

years. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the 3rd respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the reply dated 24.01.2024 filed by the petitioner was not clear. Further, she would fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of both the impugned orders. Therefore, she requested this Court to remit the matters back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the case on hand, it is clear 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 since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned orders dated 30.04.2024 & 16.08.2024 passed by the 3rd respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 30.04.2024 pertaining to the AY 2018-19 and the impugned order dated 16.08.2024 pertaining to the AY 2019-20 are set aside and the matters are remanded back to the 3rd respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the 3rd respondent, for each assessment year, within a

period of four weeks from today (21.03.2025) 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 three weeks from the date of receipt of 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.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

21.03.2025

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

To

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Chennai II, Greams Road,
Chennai 600 006

2.The Commissioner of GST and Central Excise,
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KRISHNAN RAMASAMY.J.,

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