IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9209 of 2025
AND
WMP NO. 10317 OF 2025,WMP NO. 10316 OF 2025,WMP NO. 10314 OF 2025,WMP NO. 10345 OF 2025,WMP NO. 10344 OF 2025,WMP NO. 10343 OF 2025,WMP NO. 10337 OF 2025,WMP NO. 10335 OF 2025,WMP NO. 10332 OF 2025,WP NO. 9228 OF 2025,WP NO. 9222 OF 2025

Unique Industrial Supplier
Rep by its Proprietor,
Pramod Kumar Jha,
1st, 42, Post Office Street,
Broadway, Chennai-600 001

Petitioner(s) in all W.Ps

Vs

1. The Assistant Commissioner (st)
Office Of The Assistant Commissioner (st)
Harbour Assessment Circle,
North Division Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2.The Deputy State Tax Officer II
Harbour Assessment Circle,
No.32,Integrated Commercial Taxes Building
(Room No.325), 3rd Floor
Elephant Gate Bridge Road,
Chennai-600 003

Respondent(s) in all W.Ps

PRAYER in WP No. 9209 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records pertaining to Impugned Demand Order dated 15.05.2024 made in ZD330524107049O under Section 73 of CGST/TNGST Act 2017, for Tax period April 2019 - March 2020, along with DRC 07 by the 2nd Respondent and to quash the same and consequently direct the Respondents to release the attachment by de-freezing the Petitioners bank account bearing Account Number No.235105000487, maintained with ICICI Bank, North Boag Road Branch and Account Number 5542935656 maintained with Central Bank of India, Tiruvottiyur Branch Account Number 125001711902 maintained with Canara Bank, T.C. Street Branch.

PRAYER in WP No. 9228 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records pertaining to Impugned Demand Order dated 08.12.2023 made in ZD331223046074W under Section 73 of CGST/TNGST Act 2017, for Tax period July 2017 - March 2018, along with DRC 07 by the 2nd Respondent and to quash the same and consequently direct the Respondents to release the attachment by de-freezing the Petitioners bank account bearing Account Number No.235105000487, maintained with ICICI Bank, North Boag Road Branch, Account Number 5542935656 maintained with Central Bank of India, Tiruvottiyur Branch and Account Number 125001711902 maintained with Canara Bank, T.C. Street Branch.

PRAYER in WP No. 9222 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records pertaining to Impugned Demand Order dated 22.01.2024 made in ZD330124095545F under Section 73 of CGST/TNGST Act 2017, for Tax period April 2018 - March 2019, along with DRC 07 by the 2nd Respondent and to quash the same and consequently direct the Respondents to release the attachment by de-freezing the Petitioners bank account bearing Account Number No.235105000487, maintained with ICICI Bank, North Boag Road Branch and Account Number 5542935656 maintained with Central Bank of India, Tiruvottiyur Branch and Account Number 125001711902 maintained with Canara Bank, T.C. Street Branch.

In all W.Ps

For Petitioner(s): Mr.Vikramkumar P

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

COMMON ORDER

These Writ Petitions have been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the impugned demand orders dated 15.05.2024, 22.01.2024 & 08.12.2023 and to quash the same and consequently direct the respondent to de-freeze the petitioner's bank account.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Tax) takes notice on behalf of the respondents.

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

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notices and also personal hearing notices. The show cause notices dated 15.09.2023, 25.09.2023 and 11.12.2023 were uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned orders dated 15.05.2024, 22.01.2024 & 08.12.2023 were also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay a sum of Rs.5,00,000/- out of the total disputed tax demand in respect of the impugned assessment periods and prayed to set aside the impugned orders directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Special Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of Rs.5,00,000/- out of the total disputed tax demand by the petitioner in respect of the impugned assessment periods, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notice was not furnished to them. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned orders dated 15.05.2024, 22.01.2024 & 08.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i)The orders impugned herein are set aside on condition that the petitioner deposits a sum of Rs.5,00,000/- out of the total disputed tax amount in respect of the impugned assessment periods, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii)The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii)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. The respondent is directed to instruct the Bank to unfreeze the Bank account of the petitioner immediately upon the production of the receipt of payment of Rs.5,00,000/- made by the petitioner as directed by this Court.

(iv) 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.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20-03-2025

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

To

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Office Of The Assistant Commissioner (st)
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KRISHNAN RAMASAMY J.

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