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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8322 of 2025
and
W.M.P.Nos.9331 and 9332 of 2025

M/s.Mugesh Constructions,
Reptd. by its Proprietrix
V.Vennila, wife of R.Vadivelu,
No.63, Shiridi Sai Nagar,
3rd Street, Poonamallee,
Tiruvallur District,
Pin Code 600 056. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Poonamallee Assessment Circle,
Station No.4/109, Third Floor,
Bangalore Chennai Highway
Varadharajapuram,
Nazarathpet, Chennai-600 123. ...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 dated 15.08.2024 passed by the

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Respondent against the petitioner's firm vide GSTIN-33AKBPV4883F1ZY for the Assessment Year 2019-2020 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner	:	Mr.K M Malarmannan
For Respondent	:	Ms.P.Selvi Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 15.08.2024 passed by the Respondent and to quash the same.

2. Ms.P.Selvi, learned Government Advocate(Taxes), takes notice on behalf of the respondent.

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 respondent issued show cause notice dated 27.05.2024 to the Petitioner and the same was uploaded in the GST portal. Therefore, the petitioner was unaware of the same and hence failed to file its reply. Under such circumstances, the

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respondent passed the impugned order dated 15.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-20. The Petitioner came to know of the same belatedly.

5. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that though the show cause notice along with reminder notices were issued to the Petitioner, the petitioner failed to submit their reply and therefore impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate

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their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST Portal, the petitioner was unaware of the same and hence could not file its reply. Therefore, impugned order came to be passed. Further, 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 passed by the respondent. Accordingly, this Court passes the following order:-

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(i) The impugned order dated 15.08.2024 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 additional 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.

10. With the above directions, this writ petition is disposed of. No

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costs. Consequently, connected miscellaneous petitions are closed.

12.03.2025

Index : yes/no
Neutral Citation : yes/no
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To

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Nazarathpet, Chennai-600 123.

Krishnan Ramasamy,J.,

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