IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.9758 of 2025
& W.M.P.Nos.10935 & 10936 of 2025

M/s.Chandra Trade Links,
Rep by its Proprietor, Prithviraj Jain Chandra Prakash,
117, 1st Floor, Broadway Road,
Chennai 600 108

... Petitioner

Vs.

1.The Deputy Commercial Tax Officer,
Loansquare Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.309, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

2.The Assistant Commissioner (ST),
Loansquare Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.32, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

3.The Branch Manager,
Kotak Mahindra Bank Limited,
New No.317, Old No.153,
Thambuchetty Street, George Town,
Parrys, Chennai 600 001

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in Ref.No.ZD330824294773X under Section 73 of TNGST Act, 2017 dated 30.08.2024 along with a summary of the order dated 30.08.2024 in Ref.No.ZD330824294773X on the file of the 1st respondent relating to FY 2019-20 and quash the same.

For Petitioner : Ms.N.Janani

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned assessment order dated 30.08.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents. 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 all notices/communications were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order 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 1st respondent had already deducted more than 25% of the disputed tax amount from the petitioner vide the bank attachment order. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the 1st respondent by setting aside the impugned assessment order.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed

to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the 1st respondent, subject to the verification of deduction of 25% of the disputed tax amount from 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 order. Hence, this Court is of the view that the impugned order was 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 1st respondent had already deducted more than 25% of the disputed tax amount from the petitioner vide the bank attachment order. In such view of the matter, this Court is inclined to set aside both the impugned assessment order dated 30.08.2024. Accordingly, this Court passes the following order:-

> (i) The impugned assessment order dated 30.08.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.
>
> (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 1st 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 to be lifted. As a sequel, the 3rd respondent is directed to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

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

18.03.2025

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

To

1.The Deputy Commercial Tax Officer,
Loansquare Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.309, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

2.The Assistant Commissioner (ST),
Loansquare Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.32, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.9758 of 2025
& W.M.P.Nos.10935 & 10936 of 2025

18.03.2025