IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9027 of 2025
AND
WMP NO. 10890 OF 2025,WMP NO. 10889 OF 2025,WP NO. 9719 OF 2025,WMP NO. 10132 OF 2025,WMP NO. 10136 OF 2025,WMP NO. 10135 OF 2025,WMP NO. 10133 OF 2025,WP NO. 9029 OF 2025

A Akbar
Proprietor of M/s. Abdulkhader Akbar,
No. 69A, Kancheepuram High Road,
Chengalpattu, Tamil Nadu 603002

Petitioner in all W.Ps

Vs

1. Deputy State Tax Officer 1
Chengalpatu Assessment Circle No.
16A, 1st Main Road, Anna Nagar,
Chengalpattu 603 001.

2.The Branch Manager Indian Bank
No. 29, Gandiban Vedachalam Street,
Chengalpattu 603001

Respondents in all W.Ps

PRAYER in WP No. 9027 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned DRC-07 order dated 12.07.2024 bearing Reference No. ZD330724162090Q, passed by the 1st Respondent and quash the same.

PRAYER in WP No. 9719 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned bank attachment notice dated 12.02.2025 bearing GSTIN 33AAHPA7047C1ZA/2018-19 2019-20, issued by the Deputy Commissioner (ST), Chengalpattu Zone to the 2nd Respondent and quash the same.

PRAYER in WP No. 9029 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned DRC-07 order dated 31.08.2024 bearing Reference No. ZD330824302091W, passed by the 1st Respondent and quash the same.

In all W.Ps

For Petitioner(s): Mr.Madan G

For Respondent(s): Mr.C.Harsha Raj, Special Government Pleader (t)for R1

COMMON ORDER

These writ petitions have been filed by the petitioner seeking to call for the records pertaining to the impugned DRC-07 orders dated 12.07.2024 and 31.08.2024 bearing Reference Nos. ZD330724162090Q and ZD330824302091W respectively, passed by the 1st Respondent and quash the same.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the 1st respondent.

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 24.02.2022 and 22.05.2024 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 12.07.2024 and 31.08.2024 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 25% of the disputed tax demand in respect of the impugned assessment periods and prayed to set aside the impugned order directing the 1st 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 1st respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the 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 appearing for the 1st respondent 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 notice 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 orders 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 12.07.2024 and 31.08.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment periods viz FY 2018-2019 and FY 2019-2020, 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 orders itself have 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 1st respondent is directed to instruct the Bank to unfreeze the Bank account of the petitioner immediately upon the production of the receipt of deposit of 25% 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

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