IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :13.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8596 of 2025
and
W.M.P.Nos.9608 & 9611 of 2025

Tvl. Palanisamy Nandhakumar ...Petitioner

Vs.

The Assistant Commissioner (ST)
Mettur Assessment Circle,
Mettur, Salem District. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the respondent herein in Form GST DRC-07 with Ref.No.ZD3312232541312 dated 29.12.2023 along with detailed order in GSTIN : 33AUEPN3209L1Z0 dated 13.08.2024 for the tax period 2017-18 and to quash the same as arbitrary.

For Petitioner : Mr.N.Chandrasekar
For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

Order

Heard Mr.N.Chandrasekar learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 29.12.2023 along with detailed order dated 13.08.2024 for the tax period 2017-18 and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned orders came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned orders. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Additional Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned orders without even affording any opportunity of hearing to the petitioner, which is nothing but ex parte orders, as the same suffer from violation of principles of natural justice.

6.1 Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court is inclined to pass the following orders/directions:-

i) The impugned order passed by the respondent dated 29.12.2023 along with detailed order dated 13.08.2024 for the tax period 2017-18 are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.\

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.03.2025

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Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner (ST)
Mettur Assessment Circle,

Mettur, Salem District.

Krishnan Ramasamy,J.,

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