IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9328 of 2025
and
W.M.P.Nos.10478 and 10481 of 2025

M/s.Ambal Traders,
Represented by its Proprietor Mr.P.Udayakumar
No.2, CLC Works Road,
Chrompet, Chennai-600044
GSTIN:33ADSPU6238M1ZP ... Petitioner

..Vs..

Assistant Commissioner,
Chrompet Assessment Circle
Chengalpattu, Tamil Nadu. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the Impugned Order of Demand vide DRC-07 bearing Reference No.ZD330824188847P dated 21.08.2024 passed by the respondent for the Financial Year 2019-2020 and quash the same is illegal, invalid without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr.J.Arunkumar

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

ORDER

The challenge in this writ petition is to the order dated 21.08.2024 passed by the respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 the show cause notice dated 29.05.2024 followed by two reminder notices dated 12.07.2024 and 25.07.2024 were issued to the petitioner by uploading the same in the GST portal, without serving it through physical mode. Since the petitioner being a small business concern was unaware of the same. That apart, the petitioner's auditor also failed to inform about issuance of the said notices to the petitioner and hence they could not file its reply. Subsequently, the respondent passed

the impugned assessment order dated 21.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020 and the same was also uploaded in the GST Portal. The petitioner came to know of the impugned assessment order only after receiving a call from the respondent regarding the initiation of recovery proceedings.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence she prays to set aside the impugned order.

6. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the reminder notices were issued to the Petitioner through the GST portal, the petitioner failed to submit its reply and hence impugned assessment 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 their claim, for which, the learned Additional Government Pleader (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since all the notices were uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

10. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

11. In the case on hand, the impugned order came to be passed without providing an opportunity of personal hearing to the petitioner. Hence, this Court is of the view that the impugned order passed is 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 assessment order dated 21.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 21.08.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of the 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19.03.2025

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

Assistant Commissioner,
Chrompet Assessment Circle
Chengalpattu, Tamil Nadu.

Krishnan Ramasamy,J.,

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W.P.No.9328 of 2025

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