IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.8686 of 2025
and
W.M.P.Nos.9722 and 9725 of 2025

M/s.P & D Coastal Traders
Rep. by its Proprietor,
Mrs.Deepthi
Kanchipuram-600 048. .... Petitioner

Vs

The Assistant Commissioner (ST),
Thirumudivakkam Assessment Circle,
3rd Floor, Room No.344,
The Integrated Building for Commercial Tax &
Registration Department (South Tower),
Nandhanam, Chennai-600 035. ... 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 of the respondent herein in GSTIN:33BGKPD6036N1Z9/2019-20 and quash the proceeding dated 12.08.2024 passed therein.

For Petitioner : Mr.Raveendran B

For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 12.08.2024 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 the respondent issued show cause notice dated 21.05.2024 to the petitioner and the same was uploaded in the GST portal and therefore the petitioner could not file its reply. Subsequently, impugned order have been passed by the respondent on 12.08.2024 demanding tax along with interest and penalty for the Assessment Year 2019-2020. The petitioner came to know of the impugned order only after receiving the call from the bank regarding the attachment of the petitioner's

bank account. He further submitted that a sum of Rs.5,00,000/- has been recovered from the petitioner's bank account by way of attachment.

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 notices as well as reminder notices were uploaded in the GST portal, the petitioner neither filed its reply nor appeared for personal hearing and hence impugned order came to be passed. As far as the contention of the petitioner with regard to the payment of tax liability to the tune of Rs.5,00,000/- is concerned, she submitted that appropriate orders may be passed subject to verification.

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

8. In the present case, since all the notices were uploaded in the GST portal, the petitioner was not aware of the same and hence could not file its reply. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. 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:-

(i) The orders impugned herein is set aside. and the matter is remanded to the Respondent for fresh consideration on condition.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondents concerned 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 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. As a sequel, the respondents are 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 aforesaid payment said to have been made by the petitioner, along with a copy of this order.

(v) The Respondent is at liberty to recover 25% of disputed tax liability in case, if no amount has been recovered from the petitioner's bank account as contended by the petitioner.

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

14.03.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,

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To

The Assistant Commissioner (ST),
Thirumudivakkam Assessment Circle,
3rd Floor, Room No.344,
The Integrated Building for Commercial Tax &
Registration Department (South Tower),
Nandhanam, Chennai-600 035.

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