IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :26.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**
W.P.No.10134 of 2025
and
W.M.P.Nos.11375 & 11376 of 2025

TVL.THANGAM TRADERS
REPRESENTED BY ITS PARTNER MR.DURAIRAJ.D
NO. 1 1935 THIRUVALLUR HIGH ROAD.
GANDHI NAGAR REDHILLS TIRUVALLUR
TAMIL NADU 600 052. ...Petitioner

Vs.

1. THE ASSISTANT COMMISSIONER(ST) (FAC)
CHOLAVARAM ASSESSMENT CIRCLE
INTEGRATED COMMERCIAL TAXES BUILDINGS NO.32
ELEPHANT GATE BRIDGE ROAD CHENNAI-600 003

2 DEPUTY COMMERCIAL TAX OFFICER
CHOLAVARAM ASSESSMENT CIRCLE INTEGRATED
COMMERCIAL TAXES BUILDINGS NO. 32 ELEPHANT
GATE BRIDGE ROAD CHENNAI 600 003. ...Respondents

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 2nd Respondent in FORM GST DRC-07 with Reference No. ZD330923202719B dated 27.09.2023 along with detailed notice - Annexure to DRC - 01A dated 16.05.2022 issued by the 1st respondent for the tax period APR 2021-MAR 2022 and quash the same.

For Petitioner : Mr.B.Syed Abdul Wakeel
For Respondents : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.B.Syed Abdul Wakeel learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who takes notice on behalf of the respondents. 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 2nd respondent in FORM GST DRC-07 dated 27.09.2023 along with detailed notice - Annexure to DRC - 01A dated 16.05.2022 issued by the 1st respondent for the tax period APR 2021-MAR 2022 and 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 orders, were merely uploaded in the GST Portal under the "View Additional Notices Tab", and not directly served in person, 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 are 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 Government Advocate (T) for the respondents 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. 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 orders 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 respondents passed the impugned orders without even affording any opportunity of hearing to the petitioner, which are nothing but ex parte orders, as the same suffers from violation of principles of natural justice.

6. Thus, once the orders are 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 Government Advocate (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

> i) The impugned order passed by the 2nd respondent in FORM GST DRC-07 dated 27.09.2023 along with detailed notice - Annexure to DRC - 01A dated 16.05.2022 issued by the 1st respondent are set aside.
>
> ii) Consequently, the matter is remanded to the second respondent for fresh consideration.
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> 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 second 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.

26.03.2025

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To

1. THE ASSISTANT COMMISSIONER(ST) (FAC)
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Krishnan Ramasamy,J.,

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