IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.8930 of 2025
and
W.M.P.Nos.10032, 10036 and 10037 of 2025

Shanmugam Balaji
Sole Proprietor,
Guru Gnanananda Minerals,
GST Registration No:33AAHPB0837D1ZF
37, Bajanai Koil Street,
Red Hills, Tiruvallur, Chennai
Tamil Nadu- 600 052 .... Petitioner

Vs

1.Deputy State Tax Officer-I
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated C.T.Buildings,
Chennai-600 003.

2. Office of the Assistant Commissioner (ST)
Cholvaram Assessment Circle,
Integrated Commercial Taxes Building,
Chennai North Division, No.32,
Elephant Gate Bridge Road, (Walltax Road),
Vepery, Chennai- 600 003. ... Respondents

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 relating to the impugned order dated 27.12.2023 bearing Reference No.ZD331223216734Q issued by the 1st respondent under Section 73 of the TNGST Act along with Form No.GST DRC-07 dated 27.12.2023 bearing Reference No.ZD331223216734Q issued by the 1st Respondent herein for the tax period from July 2017 to March 2018 and quash the same.

For Petitioner : Mr.Karthik Sundaram

For Respondents : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

***

ORDER

The challenge in this writ petition is to the orders dated 27.12.2023 passed by the 1st Respondent and to quash the same.

2. Ms.AmirthaPoonkodi Dinakaran, learned Government Advocate(Taxes), takes notice on behalf of the respondents.

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 2nd respondent

issued notices dated 04.07.2023 and 09.08.2023 and the same were uploaded in the GST portal and therefore the petitioner could not file its reply. Subsequently, impugned orders have been passed by the 1st respondent dated 27.12.2023 demanding tax along with interest and penalty for the Assessment Year 2017-2018. The petitioner came to know of the impugned orders only after the receipt of the letter from the Petitioner's bank. He further submitted that the 1st respondent failed to take note of the fact that the petitioner had owned another proprietorship firm-Sri Sai Chinnaman Transport and the TDS amount shown in the Income Tax return of the petitioner pertains to Sri Sai Chinnaman Transport and vide the impugned orders, the respondent wrongly sought to tax the income pertaining to M/s.Sri Sai Chinnaman Transports as the income of M/s. Guru Gnanananda Minerals. He further submitted that the tax liability to the tune of Rs.3,75,000/- has been paid by the recipient of the petitioner under the reverse charge mechanism.

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 failed to submit its reply 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.3,75,000/- is concerned, he 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 respondents 1 and 2 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 orders were 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 orders passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside. and the matter is remanded to the 1st 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 orders itself have been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner, if any 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.

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
arr

To

1.The Deputy State Tax Officer-I
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated C.T.Buildings,
Chennai-600 003.

2. Office of the Assistant Commissioner
(ST)

Cholvaram Assessment Circle,
Integrated Commercial Taxes Building,
Chennai North Division, No.32,
Elephant Gate Bridge Road, (Walltax Road),
Vepery, Chennai- 600 003.

Krishnan Ramasamy,J.,

arr

W.P.No.8930 of 2025

14.03.2025