IN THE HIGH COURT OF JUDICATURE AT MADRAS
26.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10499 of 2025
and
W.M.P.Nos.11820 & 11824 of 2025

Tvl.Best Trading Co.
rep. by its Proprietor, Mr.Shabbir Hatimbhai Chati.
...Petitioner

Vs.

The Deputy State Tax Officer -I/ Deputy
Commercial Tax Officer,
Harbour Assessment Circle
Integrated Commercial Taxes Office Complex
Chennai North Division,
No.32, Elephant Gade Bridge Road,
Chennai – 600 023. ...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 of the impugned order vide GSTIN :33BEBPS0747E1ZS/2019-20 dated 22.08.2024 on the file of the respondent along with consequential DRC-07 Order under Section 73 Ref.No.ZD330824200329K dated 22.08.2024 issued by the respondent and further, to direct the respondent to drop the proceeding.

For Petitioner : Mr.J.Poojesh

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

<u>Order</u>

Heard Mr.J.Poojesh, the learned ounsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (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 22.08.2024 and to quash the same along with consequential DRC-07 Order under Section 73 dated 22.08.2024 and further, to direct the respondent to drop the proceeding.

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 are liable to be aside, as the petitioner has not been heard before passing the impugned orders. Further, it is submitted that the respondent has already deducted 25% of the disputed tax amount from the petitioner's account, hence, requested this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

4. The learned Government Advocate (T) for the respondent fairly submitted that since 25% of the disputed tax has already been deducted from the petitioner's account, subject to the verification of such statement, 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 respondent 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, considering the fact that 25% of the disputed tax has already been deducted from the petitioner's account, this Court is inclined to pass the following orders/directions:-,

i) The impugned order passed by the respondent dated 22.08.2024 along with consequential DRC-07 Order under Section 73 dated 22.08.2024 are set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

iv) 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.

and

v) So far as the bank attachment order is concerned, it is needless to state that once the impugned orders are set aside, the attachment order can no longer survive and the same has to be given a go-by by the respondent-Department. Hence, the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

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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Index : yes/no
Neutral Citation : yes/no

To
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No.32, Elephant Gade Bridge Road,
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Krishnan Ramasamy,J.,

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