IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10181 of 2025
and
W.M.P.Nos.11430 and 11433 of 2025

M/s.Abi Estates Private Limited
Rep. by its Director
Mr.S.Elango
New No:397, Old No.281 Precision Plaza
Teynampet
Chennai 600 018. ... Petitioner

..Vs..

1. The Assistant Commissioner (ST)
   Pondy Bazaar Assessment Circle,
   Station No.:46, Mylapore Taluk Office,
   Greenways Road,
   Chennai 600028.

2. The Deputy Commissioner (ST)
   Chennai-Central-III
   Greams Road, Chennai 600 006. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for (1) ZD330824121132X dated 14.08.2024 and (2) ZD330824121832J dated

14.08.2024 passed by the 1st Respondent and (3) Bank Attachment letter No.NIL dated 18.02.2025 passed by the 2nd respondent and direct the 1st respondent herein to redo the assessment afresh after providing an opportunity of personal hearing to the petitioner.

For Petitioner	:	Mr.K.Suresh Kumar
For Respondents	:	Ms.Amirthapoonkodi Dinakaran Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the orders dated 14.08.2024 and 18.02.2025 passed by the respondents and to quash the same.

2. Ms.Amirtha PoonkodiDinakaran, 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 show cause notice dated 29.12.2022 was issued to the petitioner, for which the petitioner submitted its reply on 20.06.2024. Subsequently, the 1st respondent passed the impugned assessment order dated 14.08.2024, demanding tax along with

interest and penalty for the Assessment Year 2019-2020. Subsequently, recovery notice has been issued by the 2nd respondent on 18.02.2025.

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 he prays to set aside the impugned order.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that since the reply filed by the petitioner was not clear and without supporting documents, 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 Government Advocate (Taxes) appearing for the Respondent has no serious objection.

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

9. In the present case, it is the case of the petitioner that though they have filed reply to the show cause notice, the 1st respondent without considering the same has passed the impugned assessment order. But, the learned Government Advocate (Taxes) appearing for the respondent would submit that since the reply filed by the petitioner is not clear and without supporting documents, impugned assessment 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 hearing 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 14.08.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 14.08.2024 is set aside and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of 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, made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the 2nd 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.

24.03.2025

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

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Krishnan Ramasamy,J.,

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