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

W.P.No.10334 of 2025
and
W.M.P.Nos.11646 & 11647 of 2025

Tvl. GM Export House,

rep. by its Partner Gunasekaran. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Tiruppur North -2 Assessment Circle, Tiruppur.
...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the respondent in Form DRC-07 with reference No.ZD330724288546Y dated 24.07.2024 passed under Section 74 of the TNGST Act, 2017 and to quash the same as arbitrary.

For Petitioner : Mr.Varun Pandian

For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.Varun Pandian learned counsel appearing for the petitioner and Ms.P.Selvi, 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 24.07.2024 under Section 74 of the TNGST Act, 2017 and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice/reminders, 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 and only when the respondent initiated recovery proceeding, whereby, the petitioner's bank account has been attached and a sum of Rs.1,17,640/- was recovered, the petitioner came to know of the impugned proceedings.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order and hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that entire disputed tax has already been recovered from the petitioner's account, 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 order 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 and only when the respondent initiated recovery proceeding, whereby, the petitioner's bank account has been attached and a sum of Rs.1,17,640/- was recovered, the petitioner came to know of the impugned proceedings. Thus, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. Thus, once the order is 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 100% of the disputed tax has already been recovered from the petitioner, this Court is not inclined to impose any condition and pass the following orders/directions:-

i) The impugned order passed by the respondent dated 24.07.2024 is 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.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

sd

Index : yes/no
Neutral Citation : yes/no

To
The Assistant Commissioner (ST) (FAC)
Tiruppur North -2 Assessment Circle, Tiruppur.

Krishnan Ramasamy,J.,

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W.P.No.10334 of 2025

26.03.2025