IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.9234, 9238, 10626 & 10631 of 2025
and
W.M.P.Nos.10348, 10349, 10351, 10352, 11954, 11956, 11963& 11966 of 2025

TvL Sahil Traders,
rep. by its Proprietor Mr.Dinesh Kumar

...Petitioner in all W.Ps.

Vs.

1. The State Tax Officer/Commercial Tax Officer
Group -XI Intelligence -I
Station : No.1 PAPJM Building
Greams Road, Chennai- 600 006.

2. The State Tax Officer
Sowcarpet Assessment Circle
Integrated Commercial Taxes Department
Chennai North Division,
No.32, Elephant Gate Bridge Road,
(Near Elephant Gate Police Station, Wall Tax Road)
Vepery, Chennai – 600 003.

...Respondents in all W.Ps.

Prayer in W.P.No.9234 of 2025 :

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 passed in GSTIN : 33AALPK3597K1Z8/2018-19 dated 28.09.2024 on the file of the first respondent along with consequential DRC-

07 order under Section 74 Ref.No.ZD330924196259U dated 28.09.2024 on the file of the first respondent and to quash the same as illegal.

Prayer in W.P.No.9238 of 2025 :

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 passed in GSTIN : 33AALPK3597K1Z8/2017-18 dated 30.10.2024 on the file of the first respondent along with consequential DRC-07 order under Section 74 Ref.No.ZD3310242363570 dated 30.10.2024 on the file of the first respondent and to quash the same as illegal.

Prayer in W.P.No.10626 of 2025 :

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 passed in GSTIN : 33AALPK3597K1Z8/2019-20 dated 25.08.2024 on the file of the first respondent along with consequential DRC-07 order under Section 73 Ref.No.ZD330824226724C dated 25.08.2024 on the file of the first respondent and to quash the same as illegal.

Prayer in W.P.No.10631 of 2025 :

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 passed in GSTIN : 33AALPK3597K1Z8/2020-21 dated 13.12.2024 on the file of the first respondent along with consequential DRC-

07 order under Section 73 Ref.No.ZD331224115707N dated 13.12.2024 on the file of the first respondent and to quash the same as illegal.

Appearance of the counsel in all W.Ps.
For Petitioners : Mr.J.Poojesh
For Respondent : Mr.C.Harsha Raj
Special Government Pleader (T)

COMMON ORDER

Heard Mr.J.Poojesh learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondents. With consent, the main Writ Petitions are 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 first respondent dated 28.09.2024, consequential DRC-07 order dated 28.09.2024 (impugned in W.P.No.9234 of 2025) order dated 30.10.2024 and consequential DRC-07 order dated 30.10.2024 (impugned in W.P.No.9238 of 2025) ; the order dated 25.08.2024 and consequential order dated 25.08.2024 (impugned in W.P.No.10626 of 2025) ; the order dated 13.12.2024 and consequential order dated 13.12.2024 (impugned in

W.P.No.10631 of 2025).

3. The learned counsel for the petitioner would submit that right from DRC-01A to the impugned orders, all the proceedings were merely loaded in the on-line portal, which, the petitioner was not aware, only when the recovery notice came to be issued on 20.02.2025, the petitioner came to realize the series of proceedings initiated against him, immediately thereafter, the petitioner rushed to his Accountant to enquire about the impugned proceedings, whereby, he came to understand that all the notices and orders, which culminated in the impugned orders were uploaded in the GST Portal, under the column, 'Additional Notices and Orders' and not in Notices and Orders Columns, therefore, the petitioner's Accountant was not in a position to inform the petitioner about such notices to the petitioner.

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. Further, it is submitted that the respondent-Department in furtherance of the impugned orders, has initiated recovery proceedings against the petitioner, whereby entire disputed tax has been recovered from the petitioner's bank account, and hence, the learned counsel prays that alteast a sum of Rs.10,00,000/- may be directed to be retained in the petitioner's account.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that the matter may be remanded back for re-consideration

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that all the communications/notice, which culminated in the impugned orders were uploaded in the GST Portal, that too, not under the usual column, 'Notices and Orders', but under the different column, i.e. "Additional Notices and Orders" column, which not only the petitioner but also the petitioner's Accountant was aware. Further, the respondent-Department has not taken any steps to serve any notices/communications through any physical mode of service, particularly, by RPAD and made it available only in the GST Portal and since the petitioner is inept in computer knowledge, he was not aware of the impugned proceedings and the seriousness of the same, only when the petitioner received notice regarding recovery proceedings, the petitioner came to know of the impugned assessment proceedings. Immediately thereafter, the petitioner rushed to his Accountant to enquire about the impugned proceedings, whereby, he came to understand that all the notices and orders, which culminated in the impugned were uploaded in the GST Portal, under the column, 'Additional Notices and Orders' and not under the usual column "Notices and Orders Columns, therefore, the petitioner's Accountant was also not in a position to inform the petitioner about such notices to the petitioner.

6.1 Thus, it is crystal clear that the first 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. If at all, the petitioner is aggrieved by the impugned orders, the petitioner has an effective and efficacious remedy of filing Appeals before the Appellate Authority, however, before the petitioner could do so, since recovery notice was issued and entire disputed tax has been recovered from the petitioner's bank account, the petitioner is constrained to approach this Court seeking for setting aside the impugned orders.

6.2 Thus, once the orders 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 entire disputed tax has already been recovered from the petitioner's bank account, this Court is inclined to pass the following orders/directions:-

i) The order dated 28.09.2024 along with consequential DRC-07 order dated 28.09.2024 (impugned in W.P.No.9234 of 2025) the order dated 30.10.2024 and consequential DRC-07 order dated 30.10.2024 (impugned in W.P.No.9238 of 2025) ; the order dated 25.08.2024 and consequential order dated 25.08.2024 (impugned in W.P.No.10626 of 2025) ; the order dated 13.12.2024 and consequential order dated 13.12.2024 (impugned in W.P.No.10631 of 2025) passed by the first respondent are set aside.

ii) Consequently, the matters are remanded to the first 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 within a period of 30 days from the date of receipt of a reply from the petitioner.

And

v) As far as the request made by the petitioner for retention of a sum of Rs.10,00,000/- in the petitioner's bank account is concerned, such a request cannot be considered at this stage and the same could be decided only after re-assessment is done by the Assessing Officer.

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

24.03.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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