



W.P.No.9778 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9778 of 2025

and

W.M.P.Nos.10957 and 10959 of 2025

M/s.Emcee Industries,
Rep.by its Proprietor M.Chinna Durai
No.85/1, Suppanayakam Pudur,
Oorkavundar Thottam,
Chinnavedampatti,
Coimbatore-641018.

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Petitioner

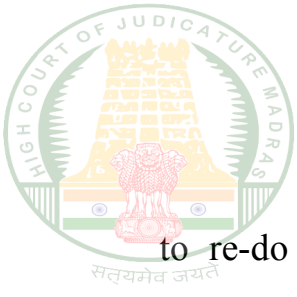
..Vs..

The State Tax Officer
Saravanampatti (West) Circle,
Coimbatore-641018.

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Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the Respondent vide his order in GSTIN: 33ADYPC8031A1ZV/2019-20 dated 29-08-2024 and its summary of the order in Form GST DRC-07 bearing Reference No.ZD3308242687044 dated 29/08/2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the respondent



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to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner : Mr.Arumugam

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 29.08.2024 passed by the respondent and to quash the same.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

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 initially the Showcause notice dated 16.05.2024 was issued to the petitioner by uploading the same in the GST portal, without serving it through physical mode. Therefore, the petitioner was not aware of the same and the petitioner's accountant also failed to inform the same to the petitioner. Hence, the petitioner



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failed to submit its reply. Subsequently, the respondent passed the impugned assessment order dated 29.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020 along with the summary order and the same were also uploaded in the GST Portal. The petitioner came to know of the impugned assessment order belatedly.

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 though the Show Cause Notice and the reminder notices were issued to the Petitioner, by uploading the same in the GST portal, the petitioner failed to submit its reply and hence the assessment order as well as the summary order came to be passed.

7. In reply, the learned counsel for the petitioner would submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to



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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, since all the notices were uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply. Under such circumstances, impugned 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 providing an opportunity of hearing to the petitioner. Hence, this Court is of



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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 along with summary order dated 29.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the 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



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and in accordance with law, after hearing the petitioner, as expeditiously as possible.

Krishnan Ramasamy,J.,

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12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**19.03.2025
(1/2)**

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

The State Tax Officer
Saravanampatti (West) Circle,
Coimbatore-641018.

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