IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10052 of 2025
and
W.M.P.Nos.11278 & 11280 of 2025

M/s. Sai Steel Industries,
Proprietor of Harendra Singh ...Petitioner

Vs.

The Superintendent
Range IV, Thiruvottiyur Division,
O/o. The Superintendent of
GST and Central Excise
Range IV, Thiruvottiyur Division
459, Ananda Complex, 1st Floor,
Teynampet Anna Salai,
Chennai – 600 018. ...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 the records on the file of the respondent passed in Order -in-Original No.12/2024-25 (GST) dated 31.01.2025 passed in GSTIN 33ABNPH8428H1ZI and Summary of the order in Form GST DRC-07 having Reference No ZD330225037232Y dated 04.02.2025 and quash the same as illegal contrary to the provisions of the TNGST/CGST/IGST Acts and in violation of principles of natural justice.

For Petitioner : Mr.P.Prithvi Chopda
for Mr.P.Aruna Chopda
For Respondent : Mr.B.Ramanakumar
Senior Standing Counsel

Order

Heard Mr.P.Prithvi Chopda learned counsel appearing for the petitioner and Mr.B.Ramanakumar, learned Senior Standing Counsel 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 -in-Original dated 31.01.2025 passed by the respondent and Summary of the order in Form GST DRC-07 dated 04.02.2025 and quash the same.

3. The learned counsel for the petitioner would submit that the respondent has manually issued the show cause notice demanding tax/interest/penalty, unfortunately, the Consultant, who was engaged by the petitioner for filing returns, failed to note those notices and intimate the petitioner, the petitioner was not aware of those notices and file reply to those notices, however, since the petitioner failed to file reply, the respondent, without giving any opportunity of personal hearing to the petitioner, confirmed the proposals contained in the show cause notice and passed the present impugned order.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and liable to be aside. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned order, the petitioner is agreable to pay 10% of the disputed tax amount and hence, prayed for appropriate order

4. The learned Senior Standing Counsel for the respondent fairly submitted that if the petitioner is ready and willing to deposit 10% of the disputed tax, then, 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, it is clear that the respondent has manually issued the show cause notice demanding tax/interest/penalty, unfortunately, the Consultant, who was engaged by the petitioner for filing returns, failed to note those notices and intimate the same to the petitioner, hence, the petitioner was not aware of those notices and file reply to those notices, however, since the petitioner failed to file reply, the respondent, without giving any opportunity of personal hearing to the petitioner, confirmed the proposals contained in the show cause notice and passed the present impugned order, which is nothing but an ex parte order, as the petitioner has not been heard before passing the impugned order.

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 the petitioner has voluntarily come forward to deposit 10% of the disputed tax, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 31.01.2025 passed by the respondent and Summary of the order in Form GST DRC-07 dated 04.02.2025 are set aside.

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

iii) The petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) 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.

20.03.2025

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Index : yes/no

To
The Superintendent
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O/o. The Superintendent of GST and Central Excise
Range IV, Thiruvottiyur Division
459, Ananda Complex, 1st Floor, Teynampet Anna Salai,
Chennai – 600 018.

Krishnan Ramasamy,J.,

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