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

W.P.Nos.10497 & 10502 of 2025
and
W.M.P.Nos.11817, 11819, 11823 & 11825 of 2025

Mrs. P.Pushpavalli
Proprietrix M/s. Bhagva Corporation. ...Petitioner in both W.Ps.

Vs.

The State Tax Officer,
K.K.Nagar Assessment Circle
5th Floor, PAPJM Annex Building
Greams Road, Chennai – 600 006.
...Respondent in W.P.No.10497 of 2025

The Assistant Commissioner (ST) (FAC)
K.K.Nagar Assessment Circle,
5th Floor, PAPJM Annex Building,
Greams Road, Chennai – 600 006.

...Respondent in W.P.No.10502 of 2025

Prayer in W.P.No.10497 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 show cause notice issued by the respondent in DRC-01 vide Ref.No.ZD330524162988X with detailed notice dated 21.05.2024 and the consequential order in GSTIN : 33BYAPP4951J1ZA/2019-20 dated 01.08.2024 and to quash the same.

Prayer in W.P.No.10502 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 show cause notice issued by the respondent in DRC-01 vide Ref.No.ZD331023004744Z with detailed notice dated 13.10.2023 and the consequential order in GSTIN : 33BYAPP4951J1ZA/2019-20 dated 27.06.2024 and to quash the same.

Appearance of the counsel in both W.Ps.

For Petitioner : Mr.G.Aniesh

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

COMMON ORDER

Heard Mr.G.Aniesh learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T)who takes notice on behalf of the respondent. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in Writ Petition No.10497 of 2025 is to the show cause notice issued by the respondent in DRC-01 with detailed notice dated

21.05.2024 and the consequential order dated 01.08.2024 and to quash the same.

2.1 The challenge in Writ Petition No.10502 of 2025 is to the show cause notice issued by the respondent in DRC-01 along with detailed notice dated 13.10.2023 and the consequential order dated 27.06.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the show cause notice, reminder notice and the notice of personal hearing were merely uploaded in the GST portal, which, the petitioner was not aware, as the petitioner had no occasion to view the portal then and then, however, the respondents proceeded to pass the impugned order dated 27.06.2024, without even affording an opportunity of personal hearing to the petitioner. Therefore, it is contended that the impugned orders suffer from violation of principles of natural justice. Further, it is contended by the learned counsel for the petitioner that apart from the show cause notice issued by the respondent, Assistant Commissioner, the State Tax Officer also issued another show cause notice in respect of very same issue dated 21.05.2024 and since no reply was filed by the petitioner, one other assessment order has been passed by the respondent/State Tax Officer, dated 01.08.2024, which is impugned in W.P.No.10497 of 2025.

3.1 Therefore, the learned counsel would submit that the impugned order in W.P.No.10497 of 2025, dated 01.08.2024 is liable to be quashed and the order impugned in W.P.No.10502 of 2025 is liable to be set aside. Further, it is submitted that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the matter back to the Authority for fresh consideration insofar as it concernes the issue in W.P.No.10502 of 2024, and therefore, prays for appropriate orders in that regard.

4. The learned Government Advocate (T) for the respondent in both Writ Petition while confirming the fact that there has been duplication of orders passed by the respondent, she fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the order impugned in WP.No.10502 of 2025 may be set aside and the matter may be remanded back for fresh consideration and insofar as the impugned order in W.P.No.10497 of 2025 is concerned, the same may be quashed.

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

6. On perusal of records, it is seen that, in the case on hand, the respondent, viz., the Assistant Commissioner has issued a show cause notice dated 03.10.2023, however, since the same was not directly served on the petitioner, but was merely uploaded in the GST Portal, the petitioner has unfortunately failed to view the same, as, the petitioner has not occasioned to see the same then and there. However, the respondent, instead of waiting for petitioner's reply and hearing the petitioner through personally, proceeded to confirm the proposals contained in the show cause notice dated 03.10.2023 and passed the impugned order dated 27.06.2024. Therefore, it is bone of contention of the learned counsel for the petitioner that the impugned order dated 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.

6.1 That apart, the State Tax Officer, who is the respondent in W.P.No.10497 of 2025 also issued another show cause notice dated 21.5.2024 in respect of the very issue, except with a difference of adding one more issue and proceeded to pass the final order dated 01.08.2024, which even was passed without affording an opportunity of hearing to the petitioner. Therefore, the order dated 01.08.2024 is a duplication of the issues, which were already covered in the impugned order dated 27.06.2024, which fact was even confirmed by the learned Government Advocate for the respondent. Therefore, as rightly contended by the learned counsel for the petitioner, the order impugned in W.P.No.10497 of 2025 has to be quashed.

6.2 Thus, this Court considering the fact that the respondent passed the impugned order dated 27.06.2024 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. 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, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 27.06.2024 passed by the respondent in W.P.No.10502 of 2025 is set aside. Consequently, the matter is remanded to the respondent for fresh consideration. The petitioner is granted liberty to deposit 25% 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. Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks. 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.

ii) So far as the order dated 01.08.2024, which is impugned in W.P.?o.10497 of 2025 is concerned, the same is quashed.

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

26.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

1. The State Tax Officer,
   K.K.Nagar Assessment Circle
   5th Floor, PAPJM Annex Building
   Greams Road, Chennai – 600 006.

2. The Assistant Commissioner (ST) (FAC)
   K.K.Nagar Assessment Circle,
   5th Floor, PAPJM Annex Building,
   Greams Road, Chennai – 600 006.

Krishnan Ramasamy,J.,

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W.P.No.10497 & 10502 of 2025

26.03.2025