IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.10951 & 10956 of 2025
and
W.M.P.Nos.12341, 12343, 12344, 12351, 12352 & 12353 of 2025

M/s.Shaktiman Equipments Private Limited,
Rep by its Director, Sundarakrishnan,
No.9, Vellalar Street, East Ayanambakkam,
Chennai 600 095

... Petitioner in both petitions

Vs.

Assistant Commissioner (ST)(FAC),
Nolambur Circle, Ambattur, Kancheepuram,
No.353, 3rd Street, Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035

... Respondent in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent and quash the impugned order in

Ref.No.ZD3308240762278 dated 09.08.2024 & ZD3308241376474 dated 16.08.2024 passed by the respondent under Section 73 of the TNGST Act, 2017 for the FY 2019-2020 as illegal, arbitrary and not in accordance with law.

For Petitioner in both petitions	:	Mr.Vadana Vyas
For Respondent in both petitions	:	Mr.T.N.C.Kaushik, Additional Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the impugned order dated 09.08.2024 & 16.08.2024 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this case, two identical show cause notices were issued by the respondent on 24.01.2024 and 25.05.2024. Since the said notices were uploaded in the "View Additional Notice and Orders" Column in the GST common portal, the petitioner, being unaware of the said notices, had failed to file their reply in time. Under these circumstances, without even providing

any opportunity of personal hearing, the impugned orders dated 09.08.2024 and 16.08.2024 came to be passed by the respondent. Hence, he would contend that the respondent had jeopardized the petitioner by determining the tax demand twice for the same discrepancy of ITR pertaining to same Financial Year 2019-20, which is a violation of principle of natural justice.

3. Further, he would submit that the respondent had already recovered more than 25% of the disputed tax amount from the petitioner vide bank attachment. Hence, he requests this Court to pass appropriate orders.

4. In reply, the learned Additional Government Pleader appearing for the respondent would admit that two show cause notices were issued and two assessment orders were passed by the respondent for the very same issue pertaining to same financial year 2019-2020.

5. Further, he would also admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, he requests this Court to pass appropriate orders to quash the impugned order dated 09.08.2024 and to set aside the impugned order dated 16.08.2024 passed by the respondent.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and also perused the materials available on record.

7. In these cases, two identical show cause notices were uploaded by the respondent in "View Additional Notices and Orders" column in GST common portal. Being unaware of the said notices, no reply was filed by the petitioner. Under these circumstances, two impugned orders were passed by the respondent, whereby the tax demand was determined twice for the very same discrepancy of returns pertaining to very same financial year 2019-2020.

8. Further, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

9. That apart, it was submitted by the learned counsel for the petitioner that the respondent had already recovered more than 25% of the disputed tax amount from the petitioner vide bank attachment. In such view of the matter, this Court is inclined to quash the impugned order dated 09.08.2024 and set aside the impugned order dated 16.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 09.08.2024 is hereby quashed.

(ii) The impugned order dated 16.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

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

(v) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

10. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

28.03.2025

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

To

Assistant Commissioner (ST)(FAC),
Nolambur Circle, Ambattur, Kancheepuram,
No.353, 3rd Street, Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035

KRISHNAN RAMASAMY.J.,

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