IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10618 of 2025
and
W.M.P.Nos.11941 & 11943 of 2025

M/s. Million Traders
rep. by its Proprietrix,
Mrs.Hajara Banu. ...Petitioner

Vs.

1. The Assistant Commissioner (ST)
   Porur Assessment Circle
   No.4/109, 1st Floor,
   Bangalore Chennai Highway,
   Varadarajapuram, Nazarathpet, Chennai – 600 123.

2. The Deputy Commissioner (ST)
   Poonamallee Zone, III Floor,
   No.4/109,
   Integrated Goods and Taxes Building,
   Bangalore Chennai Highway,
   Nazarathpet, Chennai – 600 123.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order dated 19.08.2024 passed by the first respondent against the petitioner's Firm vide GSTIN : 33AHZPH5517MIZR for the AY 2019-20 and to quash the same.

For Petitioner : Mr.K.M.Malarmannan

For Respondents : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.K.M.Malarmannanlearned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who takes notice on behalf of the respondents. 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 dated 19.08.2024 passed by the first respondent for the AY 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the show cause notice issued by the first respondent via. Portal was not noticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned order came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned order 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. However, it is stated 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 impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, 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, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order 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.

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, 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 pass the following orders/directions:-

i) The impugned order passed by the first respondent dated 19.08.2024 is set aside.

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

iii) 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.

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

v) Thereupon, the first 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.

and

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

7. In the result, the Writ Petition is 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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