IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11245 of 2025
and
W.M.P.Nos.12689 and 12690 of 2025

Tvl.Sayar Electricals
Represented by its Partner
Mr.Nitesh Mehta
No.45/2, Clements Road,
Chennai-600 007. ...Petitioner

Vs.

1. The Deputy State Tax Officer-1,
Purasawakkam Assessment Circle,
Station:F/50, First Floor,
First Avenue, Anna Nagar (East),
Chennai- 600 102.

2. The Deputy Commissioner (ST)
Central -II Zone,
No.1, 3rd Floor, PABJM Building,
Greams Road, Chennai-600 006. ...Respondents

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 pertaining to the impugned order 12.07.2024 issued in GSTIN

33ABOFS7776A1ZW/2020-21 by the 1st respondent and the consequential recovery notice issued by the 2nd respondent and quash the same.

For Petitioner	:	Mr.Derrick Sam
For Respondent	:	Mr.T.N.C.Kaushik Additional Government Pleader (Taxes)

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ORDER

Heard Mr.Derrick Sam learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), who takes notice on behalf of the respondents. With consent of both sides, 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 12.07.2024 passed by the respondent.

3. The learned counsel for the petitioner would submit that the show cause notice/communication, which culminated in the impugned order were merely uploaded in the "view additional notices and orders" column of the GST Portal, and therefore the petitioner was not aware of the show cause notice being uploaded in the GST Portal, therefore, they had no occasion to peruse the said notice and give reply. The petitioner came to know of the impugned order only after the issuance of recovery notice by the 2nd respondent.

4. The learned counsel would submit that the impugned order suffers from violation of principles of natural justice and are liable to be set aside, as the petitioner has not been afforded with any opportunity of personal hearing. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned order, the petitioner is agreeable to pay 25% of the disputed tax amount and hence, prayed for appropriate orders.

5. The learned Additional Government Pleader (Taxes) appearing for the respondent fairly submitted that if the petitioner is ready and willing to deposit 25% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

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

7. In the present case, it appears 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 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 order dated 12.07.2024 passed by the 1st respondent.

8. Accordingly, this Court passes the following order:

(i) The impugned order dated 12.07.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner 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 and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned orders itself has been set aside, this Court is of the opinion that the attachment, if any, made on the bank account of the Petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the 2nd respondent is directed to release the attachment on the bank account of the petitioner, on production of proof with regard to payment of 25% as stated above.

Krishnan Ramasamy,J.,

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This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

28.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

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   Purasawakkam Assessment Circle,
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