IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :08.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 11989 of 2025
and
W.M.P.Nos13558 & 13559 of 2025

K Sekar
S/o. KALIYAPERUMAL
NO.8/80A MAIN ROAD VANDIKUPAM CUDDALORE 607004. ...Petitioner

Vs.

1. The Union of India Represented by its Secretary Department of Revenue
Ministry of Finance NORTH BLOCK NEW DELHI 110 001.

2 Central Board of Indirect Taxes and Customs
Ministry of Finance,
NORTH BLOCK NEW DELHI 110 001.

3 The Assistant Commissioner (ST)
O/o. the Assistant Commissioner (ST)
Cuddalore Taluk Assessment Circle
Commercial Taxes Building
Integrated Master Plan Complex Cuddalore District. ...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 the records pertaining to the impugned order vide DRC 07 dated 07.06.2023 for the Financial Year 2018-2019 issued by the 3rd Respondent and Order dated 25.06.2024 DRC 16 notice issued under Rule 147(1) and 151(1) of the GST Act 2017 in NaKa.A2/344/2022 issued by the 3rd Respondent and quash the same.

For Petitioner : Mr.V.Vadivalagia Nambi

For Respondent -1 : Ms.Revathi Menon
Senior Standing Counsel
For Respondents2 and 3 : Mr.C.Harsha Raj
Special Government Pleader (T)

Order

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 passed by the third respondent dated 07.06.2023 and the Order dated 25.06.2024 in DRC 16 notice and quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned orders, were merely uploaded in the GST Portal under the "View Additional Notices Tab", and not directly served in person, hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned orders came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned orders. However, it is stated that the petitioner is also 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 Special Government Pleader for the respondents 2 and 3 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 orders 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 third respondent passed the impugned orders without even affording any opportunity of hearing to the petitioner, which are nothing but ex parte orders, as the same suffers from violation of principles of natural justice.

6. Thus, once the orders are 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 Special Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

> i) The impugned order passed by the third respondent dated 07.06.2023 and the Order dated 25.06.2024 in DRC 16 notice issued by the 3rd Respondent are set aside.
>
> ii) Consequently, the matter is remanded to the third 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 third 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.

08.04.2025

sd

Index : yes/no

Neutral Citation : yes/no

To

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