IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11151 of 2025
and
W.M.P.No.12584 of 2025

Ms. Pegasus Forwarding Services Pvt Ltd
Represented by its Director
Mr.R. Raghavan Son of C.R. Ravikrishnan
Having Office at No. 244/138 Angappa
Naicken Street Parrys Chennai – 600 001.

...Petitioner

Vs

1 Union of India
Rep by its Secretary
Ministry of Finance
Government of India North Block
New Delhi 110 001

2 The Central Board of Indirect Taxes and Customs
Rep. by its Commissioner GST Policy Wing
New Delhi.

3 The Government of Tamil Nadu
Rep by its Principal Secretary to Government
Revenue Department (Commercial Tax)
Secretariat Fort St. George, Chennai 600 009.

4 The Commissioner of Commercial Tax
4th Floor Ezhilagam Building Kamarajar Road
Chepauk Chennai 600 005.

5 The Assistant Commissioner of Commercial Taxes (ST)
Broadway Assessment Circle
Chennai North Division
No. 32 Integrated Commercial Taxes Office Complex
Room No. 304 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai – 600 003.

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 bearing Reference No.ZD3302252357320 dated 24.02.2025 passed by the 5th Respondent and to quash the same.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader (T)

Order

Heard Mr.R.Jayaprakash learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondent. 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 passed by the fifth respondent dated 24.02.2025 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that fifth respondent issued a show cause notice, to which, the petitioner filed a detailed reply dated 17.01.2025, but the fifth respondent passed the impugned order, without even affording an opportunity of hearing to the petitioner, by stating as if, no reply was filed, which per se shows non-application of mind on the part of the fifth respondent in passing the impugned order. Therefore, the learned counsel prays to set aside the same.

4. The learned Special Government Pleader for the respondents would fairly submit that since the impugned order has been passed without even hearing the petitioner, this Court may remand the matter back to the Authority for fresh consideration, in which case, the matter would be considered and orders would be passed after affording an opportunity of hearing to the petitioner and in the event, the petitioner they intends to file any additional reply, the same would also be taken into consideration before passing orders.

5. I have given due consideration to the submission made by the learned counsel for both sides and perused the materials available on record.

6. In the present case, it is seen that fifth respondent has caused a notice dated 24.10.2024, to which, the petitioner file a reply dated 28.10.2024. However, ignoring the said reply, the fifth respondent issued a summary of show cause notice dated 26.11.2024, without issuing detailed show cause notice, but the petitioner filed reply to the said show cause notice as well on 28.11.2024. Again, the fifth respondent kept issuing reminders dated 06.12.2024 and 31.12.2024 stating that the petitioner has not filed any reply. Therefore, the petitioner filed one more reply dated 06.01.2024, Even thereafter, the fifth respondent kept persisted with further reminder dated 08.01.2025, to which, the petitioner filed a detailed reply on 17.01.2025. But the fifth respondent without even affording an opportunity of personal hearing to the petitioner passed the impugned order dated 24.02.2025, confirming the demand, by wrongly stating that "the tax payer was issued with three reminders, in the interest of justice, requesting them for filing relevant supporting documents, however, the taxpayer neither appeared for the personal hearing nor provided the required documents, instead a reply was filed on 17.01.2025 along with certain documents uploaded in Form GST DRC-06. On verification, the taxpayer's reply has been found unacceptable."

6.1 Thus, it is crystal clear, the fifth respondent has passed the impugned order on a total non-application of mind, without even granting an opportunity of personal hearing to the petitioner. Though the impugned order appears to be a detailed order, the same are nothing but mere extraction of the issues pointed in their show cause notices/reminders and without even rendering any findings on the issue, merely made a bald statement and premeditatedly confirmed the demand without taking cognizance of the reply filed by the petitioner on various dates. Therefore, this Court is inclined to set aside the impugned order.

6.2 Accordingly, the following orders/directions are passed/issued:-

i) The impugned order passed by the fifth respondent dated 24.02.2025 is set aside.

ii) Consequently, the matter is remitted back to the fifth respondent for fresh consideration.

iii) The fifth respondent is directed to consider the replies filed by the petitioner in response to the notices issued by them and after hearing the petitioner, shall decide the matter in accordance with law.

iv) In the event, the petitioner intends to file any additional reply, the same may be filed by the petitioner within a period of two weeks from the date of receipt of a copy of this order, which shall also be taken into consideration by the fifth respondent before passing the final order.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

09.04.2025

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Index : yes/no
Neutral Citation : yes/no

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