IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11306 of 2025
AND
WMP NO. 12746 OF 2025,WMP NO. 12747 OF 2025

Tvl.Cittibabu Vijayakumar
(Trade Name Vijay Engineering)
represented by its Proprietor,
79, Village High Road,
Chennai - 600 119

Petitioner(s)

Vs

1. Assistant Commissioner
Kelambakkam, Assessment Circle,
Chengalpet Tamil Nadu.

2.Deputy Commissioner
GST Appeal, Chennai - ll
Chennai - 600 006

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, **c**alling for the records of Order of Assessment in DRC-07 bearing Reference No 2D3308242328177 in GSTIN/ID

33ADOPV7063M2ZQ / APR 2019 - MAR 2020 dated 27.08.2024 passed by the 1st respondent and to quash the same.

For Petitioner(s): Mr.R.Ganesh Kanna

For Respondent(s): Ms.Amirta Poonkodi Dinakaran, Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records of Order of Assessment in DRC-07 bearing Reference No 2D3308242328177 in GSTIN/ID 33ADOPV7063M2ZQ / APR 2019 - MAR 2020 dated 27.08.2024 passed by the 1st respondent and to quash the same.

2.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 13.03.2024 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 27.08.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 1st respondent, had preferred an appeal before the 1st respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 14.03.2025. Hence, the petitioner is ready and willing to pay another 15% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders directing the 1st respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondents would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 15% of the disputed tax demand in addition to the 10% depsoite already being made by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. It appears that three reminders were also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminders and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondents to choose an other effective mode of service instead of uploading the notices on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before this Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order dated 27.08.2024 came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned assessment order dated 27.08.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 15% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% statutory deposit already made, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) 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 lifted. The 1st respondent is directed to instruct the Bank to unfreeze the Bank account of the petitioner immediately upon the production of the receipt of 15% deposit made by the petitioner as directed by this Court.

(iv) On filing of such reply/objection by the petitioner, the 1st 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.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

27-03-2025

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

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To

1.Assistant Commissioner
Kelambakkam, Assessment Circle,
Chengalpet Tamil Nadu.

2.Deputy Commissioner
GST Appeal, Chennai - ll Chennai - 600
006

KRISHNAN RAMASAMY J.

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