IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.12647 of 2025
and
W.M.P.Nos.14232 and 14233 of 2025

Tvl.S.Velayutham
Rep. by its Proprietor Mr.Srinivasan Velayutham
GSTIN:33AEUPV8397P1ZY
Plot No.50, 4th Street, VKN Nagar,
Ikkadu, Tiruvallur, Tamil Nadu 602 021. ...Petitioner

Vs.

1. Commercial Tax Officer/State Tax Officer,
   Tiruvallur Assessment Circle
   No.4/109, GST Building
   Bangalore Chennai Highway
   Nazarethpet, Poonamallee
   Tiruvallur-600 123.

2. The Manager,
   Bank of Baroda, Tiruvallur Branch
   No.1/5A, C V Naidu Road,
   N H 205, Tiruvallur-602 001. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent relating to impugned order DRC-07 Reference No:ZD330624294331H dated 25.06.2024 issued by the 1st respondent and quash the same as illegal, arbitrary and unconstitutional and thereby consequently, direct the 1st respondent to refund the amount deducted from the Electronic Cash and Credit ledger and further direct the 2nd respondent to lift the bank attachment.

For Petitioner	:	Mr.K.Sathish
For Respondent	:	Mrs.K.Vasanthamala Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 25.06.2024 passed by the Respondents and to quash the same.

2. Mrs.K.Vasanthamala, 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 time of admission stage itself.

4. The learned counsel for the petitioner submits that impugned order dated 25.06.2024 was passed by the 1st respondent demanding tax along with interest and penalty for the assessment year 2019-2020, without issuing show cause notice and without providing an opportunity of personal hearing to the petitioner and the same was uploaded in "View Additional Notices and Orders" tab in the GST portal, without serving the physical copy of the same to the petitioner. The petitioner came to know of the impugned order belatedly. Immediately, the petitioner filed rectification application on 20.09.2024 along with sufficient documents and the same was rejected on 20.11.2024. Subsequent to the same, a sum of Rs.1,38,386/- from the electronic credit ledger and a sum of Rs.65,182/- from Electronic cash ledger has been deducted by the 1st respondent. That apart, the petitioner's bank account lying with the 2nd respondent has also been attached.

5. Further, he would submit that impugned assessment order came to be passed without issuing show cause notice and without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence he prays to set aside the impugned order.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the 1st respondent issued of DRC 01 notice and personal hearing notice to the petitioner, the petitioner neither submitted its reply nor appeared for personal hearing. Under such circumstances, assessment order came to be passed. As far as the contention of the petitioner with regard to the recovery of the aforesaid amounts from electronic cash and credit ledgers are concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, the case of the petitioner is that without issuing show cause notice and opportunity of personal hearing, impugned order came to be passed.

9. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

10. In the case on hand, the impugned orders came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is 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 assessment order 25.06.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein are set aside.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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 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. As a sequel, the 2nd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the proof of recovery said to have been made from the petitioner's electronic cash and credit ledgers along with a copy of this order.

(v) The Respondent is at liberty to recover 25% of disputed tax liability in case, if no amount has been recovered by the 1st respondent as stated by the learned counsel for the petitioner.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

08.04.2025

Index : yes/no
Neutral Citation : yes/no
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To

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Krishnan Ramasamy,J.,

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