IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.12219 of 2025
and
W.M.P.Nos.13780 & 13781 of 2025

M/s. Harshitha Associates
rep. by its Proprietor, K.Magesh ...Petitioner

Vs.

The State Tax Officer,
Muthialpet Assessment Circle,
Elephant Gate Bridge Road,
Integrated Commercial Taxes Building,
Chennai North Division, Chennai – 600 003. ...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the respondent in the impugned order in Form GST-DRC -07 bearing Ref.No.ZD330924204477B dated 30.09.2024 passed by the respondent by quashing the same and consequently, to direct the respondent to re-adjudicate the matter afresh after providing an opportunity for personal hearing.

For Petitioner : Mr.V.Veeraraghavan
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.V.Veeraraghavan learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (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 respondent dated 30.09.2024 and to quash the same and consequently, to direct the respondent to re-adjudicate the matter afresh after providing an opportunity for personal hearing.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices Tab", 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 order came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. 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 Government Advocate (T) for the respondent 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 order 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 respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

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

i) The impugned order passed by the respondent dated 30.09.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily come 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 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.

And

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer,
Muthialpet Assessment Circle,
Elephant Gate Bridge Road,
Integrated Commercial Taxes Building,
Chennai North Division, Chennai – 600 003.

Krishnan Ramasamy,J.,

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