IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.11728 of 2025 &
W.M.P.Nos.13276 and 13278 of 2025

Tvl.SREE ML CONSTRUCTION
Rep.by its Proprietor
Mr.MASILAMANI
No.10/5, M L COMPLEX, OLD GST ROAD,
IRUMBULIYUR,EAST TAMBARAM,
Tamil Nadu-600 059.
GSTIN -33AEWPM6565J1ZR
.. Petitioner

.. Vs..

1. The Deputy State Tax Officer,
Selaiyur Assessment Circle,
Room No.346, Integrated Commercial Taxes
Building, Nandanam,
Chennai-600035.

2.The Deputy commissioner(ST)
(FAC), Tambaram Zone,
Commercial Tax Department,
4th Floor, Room No.422,
PAPJM Building,

No.1, Greams Road,
Chennai-600 006.
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order of the First Respondent dated 31.08.2024 in GSTIN No.33AEWPM6565J1ZR/2019-20 dated 31.08.2024 along with its consequential Summary Order in Ref.No.ZD330824311773F dated 31.08.2024 for the Tax Period from April 2019 to March 2020 and also the impugned order of the Second Respondent attaching the Bank account of the Petitioner in GSTIN:33AEWPM6565J1ZR/DCT 03/Active/dated 12.02.2025 and quash the same and also direct the Second Respondent to lift the Bank attachment dated 12.02.2025.

For Petitioner : Ms.Premalatha S

For Respondents : Ms.K.Vasanthamala
Government Advocate (Taxes)

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ORDER

This Writ petition has been filed challenging the orders passed by the 1st respondent dated 31.08.2024 and also impugned order of the 2nd respondent attaching the Bank account of the Petitioner dated

12.02.2025 and quash the same and also direct the 2nd respondent to lift the Bank attachment dated 12.02.2025..

2. The learned counsel for the petitioner would submit that the show cause notice dated 29.05.2024 was issued by the Respondent, for which the petitioner submitted its reply on 12.07.2024. But the 1st respondent without considering the reply filed by the petitioner has passed the impugned assessment order on 31.08.2024 demanding tax along with interest and penalty for the assessment year 2019-20. Subsequently, the bank account of the petitioner has been attached by the second respondent vide order dated 12.02.2025.

3. The learned counsel would submit that the impugned order suffers from violation of principles of natural justice and are liable to be set aside, as the petitioner has not been afforded with any opportunity of personal hearing. That apart in the impugned order, the reply filed by the petitioner was not recorded. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned orders,

the petitioner is agreeable to pay 25% of the disputed tax amount and hence, prayed for appropriate orders.

4. The learned Government Advocate (Taxes) appearing for the respondent submitted that the petitioner filed its reply on 12.07.2024 for the show cause notice stating that they are expecting detailed reply from their auditor and hence sought 30 days time for filing reply. Further, he would submit that though 30 days time has been granted to the petitioner for as requested by them, the petitioner has not chosen to file the reply to substantiate its case. Under such circumstances, assessment order came to be passed. However, he fairly submitted that if the petitioner is ready and willing to deposit 25% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the present case, though the petitioner has filed its reply on 12.07.2024, the 1st respondent passed the impugned order without

mentioning about the reply filed by the petitioner.

7. A perusal of the reply filed by the petitioner would go to show that the petitioner sought 30 days time to file its reply and it is the case of the respondents that despite 30 days time being granted by them to file the reply, the petitioner has not chosen to file its reply and hence assessment order came to be passed.

8. Though, there is no fault on the part of the respondents, 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.

9. In the case on hand, the impugned orders were passed without giving opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside.

10. Accordingly, this Court passes the following order:

(i) The orders impugned herein are set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the 1st respondent within a period of ***two weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

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

(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 orders 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 to be lifted. As a sequel, the 2nd respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, on production of proof with regard to payment of 25% as stated above.

02.04.2025

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To

1. The Deputy State Tax Officer,
   Selaiyur Assessment Circle,
   Room No.346, Integrated Commercial Taxes
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   Chennai-600035.

2.The Deputy commissioner(ST)
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KRISHNAN RAMASAMY.J.,

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