IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13577 of 2025
and
W.M.P.Nos.12334 & 15238 of 2025

Lalita Logistics and Agencies Pvt. Ltd.,
Represented by its Managing Director,
Mr.Shyam Agarwal. ...Petitioner

Vs.

THE DEPUTY State TAX OFFICER
formerly known as DEPUTY COMMERCIAL TAX OFFICER
No.F50, 3rd Floor, First Avenue,
Kilpauk Assessment Circle, Anna Nagar East
Chennai – 600 102. ...Respondent

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 from the file of the Respondent in Reference Number.ZD330424179879R/2018-19 dated 24.04.2024 and quash the same as arbitrary.

For Petitioner : M/s.V.Vijayalakshmi

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.V.Vijayalakshmi learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, 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 24.04.2024 and quash the same as arbitrary.

3. The learned counsel for the petitioner would submit that the respondent issued Form GST DRC-01 dated 10.01.2024, to which, the petitioner filed a reply dated 04.03.2024, requesting the respondent to grant some time; that though the documents were available, the petitioner was not in a position to file those documents due to the fact that the petitioner's accountant left the job without prior intimation. Therefore, the learned counsel contended that the non-filing of reply and non-appearance before the respondent is neither wilful nor wantor, but, the respondent, without providing an opportunity of hearing to the petitioner, passed the impugned order. Therefore, the learned counsel submits that the impugned order suffers from violation of principles of natural justice. The learned counsel fairly submitted that in the event, this Court is inclined to set aside the impugned order, the petitioner is ready and willing to deposit 25% of the disputed tax, 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. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that the respondent has issued a show cause notice, to which, the petitioner filed a reply requesting the respondent to grant some time. The respondent, heeding to such request, fixed the personal hearing on 03.04.2024, Unfortunately, though the petitioner was in possession of supportive documents, he was not in a position to file those documents due to the fact that the petitioner's accountant left the job without prior intimation. However, the respondent, without hearing the petitioner, proceeded to pass the impugned order by recording that the petitioner has neither appeared nor responded to the notices.

6.1 Therefore, this Court is of the view that the impugned order passed by the respondent is nothing but an ex parte as the same suffers from the violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order. 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, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent 24.04.2024 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 came 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.

and

v) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

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To

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Chennai – 600 102.

Krishnan Ramasamy,J.,

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