IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12477 of 2025
AND
WMP NO. 14081 OF 2025,WMP NO. 14082 OF 2025

Tvl Vignesh Engineering Works
Rep by its Propreitor
Ranganathan Devarajan
108/765, 5, Thiruvetriyur High Road,
New Washermenpet, Chennai,
Tamil Nadu - 600081

Petitioner(s)

Vs

1.State Tax Officer
Thiruvottiyur Assessment Circle
No.32, Integrated Commercial Tax Building
2nd floor Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

2.Assistant Commissioner (ST)
Thiruvottiyur Assessment Circle
No 32, Integrated Commercial Tax Buildin
2nd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600003.

3.HDFC Bank Limited
No.287A,Thiruvathiyur High Road
Old Washermenpet, Chennai 600021.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the Respondent herein in impugned order passed in GSTIN 33AH LPD4263A1ZX/2019-20 dated 19.08.2024 and consequential DRC-07 passed in Reference No. ZD330824157233H dated 19.08.2024 for the FY 2019-20 passed by the 1st respondent and quash the same and further direct the 2nd respondent to lift the attachment of the bank accounts of the Petitioner held in Current A/C No. 06888310000060 with 3rd respondent.

For Petitioner(s): Ms.G Vardini Karthik

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate(t)
For Rr1 And 2
Mr.C.Mohan
and Ms.A.Rexy Josephine Mary
For M/s.King And Partridge
for R3

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records of the Respondent herein in impugned order passed in GSTIN 33AH

LPD4263A1ZX/2019-20 dated 19.08.2024 and consequential DRC-07 passed in Reference No. ZD330824157233H dated 19.08.2024 for the FY 2019-20 passed by the 1st respondent and quash the same and further direct the 2nd respondent to lift the attachment of the bank accounts of the Petitioner held in Current A/C No. 06888310000060 with 3rd respondent.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents 1 and 2. Mr.C.Mohan and Ms.A.Rexy Josephine Mary for M/s.King And Partridge, takes notice on behalf of the 3rd respondent.

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

25.05.2024 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 19.08.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the 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 1 and 2 would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand 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 1 and 2 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 notice was 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. 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 when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notice 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 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 order dated 19.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, 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) 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 respondent is directed instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 15% of the demand amount by the petitioner as stated above.

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.

07-04-2025

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

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To

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