IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13574 of 2025

M/S.Shri Ganesh Agencies
Represented by its Proprietor Mr.R.Shivakumar
No B1 118 Sri Balakrishna Nagar
Ramapuram Chennai-89.

...Petitioner

Vs.

1 The State Tax Officer
Nandambakkam Assessment Circle
Integrated Commercial and Registration Building
Room No. 307 3rd Floor Nandanam Chennai- 035.

2 Deputy Commissioner (CT)
Appeal Chennai II No 1 Greams Road, Chennai-600 006.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned order of the first Respondent passed in TIN 33910844364/2007-08 dated 09.02.2024 and quash the same.

For Petitioner	:	Mr.N.Murali
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate (T)

Order

Heard Mr.N.Murali, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of the respondents. 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 first Respondent dated 09.02.2024 and quash the same.

3. The learned counsel for the petitioner would submit that since the petitioner's GST registration was cancelled w.e.f. 23.04.2022 and the petitioner did not renew their registration, and that apart, the petitioner also changed their name and place of business w.e.f. 30.08.2011, the notices/communications sent by the petitioner throug the GST Portal 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. Further, it is stated that in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, entire tax along with penalty has already been recovered from the petitioner, hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that 100% of the disputed tax has already been recovered from the petitioner's account, subject to the verification of the said statement, 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 due to the fact that their GST registration was cancelled w.e.f. 23.04.2022, hence, the petitioner could not file reply or appear for the personal hearing. However, the first 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, considering the fact that 100% of the disputed tax has already been recovered from the petitioner, this Court is inclined to pass the following orders/directions:-

i) The impugned order passed by the first respondent dated

09.02.2024 is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

and

iv) Thereupon, the first 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.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs.

17.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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