IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14270 of 2025
and
W.M.P.Nos.16061 & 16071 of 2025

M/s.Sri Sai Smk Enterprises
Rep. by its Proprietor Mr.M.Murugan
No.30, Union Road,
Peramanur, Maraimalai Nagar,
Chengalpattu-603209 ...Petitioner

Vs.

The Deputy Commercial Tax Officer,
Maraimalainagar,
Chengalpattu District. ...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 records of the impugned order dated 24.08.2024 bearing reference No.ZD330824222691H in GSTIN:33DGWPM7121R1Z1 along with Attachment to DRC-07 order dated 24.08.2024 of the Respondent and quash the same as arbitrary, illegal and without jurisdiction.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (Taxes)

Order

Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), 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 dated 24.08.2024 passed by the respondent for the AY 2019-20 and also attachment order dated 24.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice dated 22.05.2024 followed by three reminder notices dated 24.06.2024, 10.08.2024 and 17.08.2024 to the petitioner. Since the same were uploaded in the GST portal, without serving physical copy of the same to the petitioner and therefore was not aware of those notices and file reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. 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. Therefore, he prays to set aside the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that subsequent to the impugned order the petitioner has paid a sum of Rs.7,68,804/- before the respondent towards the tax liability. He would further submit that there is bank attachment and the same may be lifted.

4. The learned Special Government Pleader (Taxes) for the respondent would submit that the matter may be remanded back to the respondent subject to terms. As far as the contention of the petitioner with regard to the aforesaid sum of Rs.7,68,804/- is concerned, the learned Special Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.

5. In the present case since the show cause notice was uploaded in the GST portal, the petitioner was not aware of the same and hence could not file its reply. Under such circumstances, impugned order came to be passed.

6. 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.

7. In the case on hand, the impugned orders came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 24.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein are set aside.

(ii) The Petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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) The Respondent is at liberty to recover 25% of disputed tax liability in case, if no amount has been paid by the petitioner as stated by the learned counsel for the petitioner.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any, made on the bank account of the Petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, forthwith on production of proof with regard to the aforesaid payment made by the petitioner .

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

23.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy Commercial Tax Officer,
Maraimalainagar,
Chengalpattu District.

Krishnan Ramasamy,J.,

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W.P.No.14270 of 2025

23.04.2025