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

W.P.No.13666 of 2025
and
W.M.P.Nos.13349 & 13350 of 2025

Tvl Ramadoss Suseela
Trade name Gayathri Chemicals)
11 Bodi Chetty Street
T.A.R Nagar Thiruppapuliyur Cuddalore
Tamil Nadu 607002 ...Petitioner

Vs

Commercial Tax Officer
Cuddalore (Town) Cuddalore, Tamil Nadu ...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of order of Assessment in DRC -07 bearing Reference No ZD3302240271605 in GSTIN / ID : 33EHNPS1 251 M1ZX / APR 2018-MAR 2019 dated 06.02.2024 passed by the respondent and to quash the same and to further direct the respondent to lift the Attachment Notice in Form GST DRC -13 bearing GSTIN 33EHNPS1251M1ZX dated 12.02.2025 issued upon the petitioners dealer.

For Petitioner : Mr.R.Ganesh Kanna

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

Order

Heard Mr.R.Ganesh Kanna learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (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 06.02.2024 and to quash the same and to further direct the respondent to lift the Attachment Notice dated 12.02.2025 issued upon the petitioner's dealer.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order were merely uploaded in the GST Portal under the "View Additional Notices Tab", and not served on the petitioner via. RPAD, hence, the same 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 are liable to be aside, as the petitioner has not been heard before passing the impugned order. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Special Government Pleader (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. 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 then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the 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, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Special Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 06.02.2024 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 come 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.

v) Thereupon, the 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.

and

vi) So far as the bank Attachment Notice dated 12.02.2025 is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed lift the attachment by issuing appropriate direction on the petitioner's banker forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The Commercial Tax Officer
Cuddalore (Town) Cuddalore, Tamil Nadu

Krishnan Ramasamy,J.,

sd

W.P.No.13666 of 2025

17.04.2025y