IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos. 14384 and 14385 of 2025
AND
WMP Nos. 16217, 16218, 16223 and 16222 of 2025

Tvl. D GEETHA ENTERPRISES
Rep by its Proprietor Mr V Dhanajeyan
C-1, Munusamy Street, Athipet,
Ambattur. Chennai - 600058.

Petitioner in both W.P.'s

Vs

1. The Assistant Commissioner (ST)
FAC,
Nolambur Assessment Circle,
Room No.353, 3rd Floor, Intergrated
Commercial Taxes Office Complex,
Nandanam, Chennai-35.

2.The Sub Registrar
Ambattur Sub Registrar Office
Villivakkam panchayat union office
complex, Dunlop, Chennai -53

Respondents in both W.P.'s

PRAYER:

These Writ Petitions are filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified calling for the records in the files of the 1st respondent in GSTIN: 33AHPPD8436PIZR/ 2019 - 20 dated 04.07.2024 and GSTIN 33AHPPD8436PIZR/ 2021 - 22 dated 13.07.2024 and to quash the same as illegal, invalid and without Jurisdiction and violated the principles of natural Justice.

For Petitioner (in both W.P.'S)	:	Mr.D.Vijayakumar
For Respondents (in both W.P.'s)	:	Ms.Amirthapoonkodi Dinakaran Government Advocate (Taxes)

***

COMMON ORDER

These Writ Petitions have been filed challenging the order of the 1st respondent in GSTIN: 33AHPPD8436PIZR/2019-20 dated 04.07.2024 and GSTIN 33AHPPD8436PIZR/2021-22 dated 13.07.2024 and to quash the same as illegal, invalid and without Jurisdiction and violated the principles of natural Justice.

2. Ms.Amirthapoonkodi Dinakararn, learned Government Advocate (Taxes) takes notice on behalf of the respondents. By consent of both sides, these writ petitions are taken up for final disposal at the stage of admission itself.

3. The learned counsel for the petitioner would submit that show cause notices which culminated in the impugned orders were issued to the petitioner by the 1st respondent by uploading the same in the GST portal. Since the part time accountant to whom the petitioner entrusted the work relating to GST has failed to notice the same and also left the job, the petitioner failed to submit its reply for the show cause notices, which resulted in passing of the impugned orders, demanding tax along with interest and penalty for the Assessment Years 2019-2020 and 2021-2022 . The petitioner came to know of the same only after the issuance of attachment notices by the 1st respondent.

4. The learned counsel would submit that the impugned orders suffers from violation of principles of natural justice and are liable to be set aside, as the petitioner has not been afforded with any opportunity of personal hearing. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned orders, the petitioner is agreeable to pay 25% of the disputed tax amount and hence, prayed for appropriate orders.

5. The learned Government Advocate (Taxes) appearing for the respondent submitted that though the show cause notices followed by reminder notices was issued to the petitioner, the petitioner failed to submit its reply to substantiate its case, which resulted in passing of the impugned orders. However, he fairly submitted that if the petitioner is ready and willing to deposit 25% of the disputed tax (for both assessment years), then, the prayer sought for by the petitioner may be considered.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. In the present case all the notices were uploaded in the GST portal and as the petitioner's accountant failed to notice also left the job, the petitioner was not aware of the same and hence failed to submit its reply. Under such circumstances, impugned orders came to be passed.

8. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were passed 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 orders dated 04.07.2024 and 13.07.2024 passed by the 1st respondent.

8. Accordingly, this Court passes the following order:

(i) The orders impugned herein are set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the 1st respondent with respect to each of the assessment years within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(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 orders itself has been set aside, this Court is of the opinion that the attachment, made on the property of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the 2nd respondent is directed to release the attachment on the property of the petitioner, with respect to the present proceedings on production of proof with respect to payment of 25% of the disputed tax as stated above. However, it is made clear that the 1st respondent is at liberty to proceed further with respect to other assessment years.

These Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

23-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
arr
Note: Issue order copy on 25.04.2025

To

1.The Assistant Commissioner (ST)
FAC
Nolambur Assessment Circle, Room No.353, 3rd Floor, Itnergrated Commercial Taxes Office Complex, Nandanam, Chennai-35.

2.The Sub Registrar
Ambattur Sub Registrar office
Villivakkam panchayat union office complex, Dunlop, Chennai -53

KRISHNAN RAMASAMY, J.

arr

WP Nos. 14384 and 14385 of 2025

AND

WMP Nos. 16217, 16218, 16223 and 16222 of 2025

23-04-2025