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

W.P.No.13714 of 2025
and
W.M.P.Nos.15409 & 15410 of 2025

K.Muthukumar ...Petitioner

Vs.

The Deputy Commissioner (GST-CT)
161-Meenakshi Sundaranar Salai,
CSI Institutions Campus, Brough Road,
Erode.
...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 records of the impugned order dated 10.02.2025 vide Ref.No.BL3302250000578 passed by the respondent and to quash the same as arbitrary and consequently, to direct the respondent to unblock the credit in the petitioner's GST portal.

For Petitioner : Mr.K.Vasanthanayagan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard Mr.K.Vasanthanayagan learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (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 10.02.2025 and to quash the same as arbitrary and consequently, to direct the respondent to unblock the credit in the petitioner's GST portal

3. The learned counsel for the petitioner would submit that the petitioner, during the course of business, purchased various construction materials from one M/s.Megha Enterprises, for which, the said Enterprises also given tax invoices and e-way bills, in fact, the said supplier also filed GST returns under GSTR-3B, wherein, the said purchase was disclosed, and the petitioner also filed returns for the subject period, wherein, the said purchase was reflected in GSTR-2A and GSTR-2B, however, the respondent, without issuing any show cause notice or any intimation, passed the impugned order, thereby, blocking the petitioner's electronic credit ledger; that since the respondent had blocked the ITC claim availed by the petitioner, the petitioner is finding difficult to file GST returns and doing the business by using the GSTIN number, hence, the learned counsel prays for appropriate orders. Further, it is stated that the petitioner is also ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by the petitioner may be considered.

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

6. In the case on hand, there is no dispute on the aspect that the impugned order of blocking the petitioner's Electronic Credit Ledge is done without issuing any prior intimation or show cause notice calling for the petitioner's reply. Had it been the contention of the respondent that the GSTR returns filed by the petitioner for the subject period does not reflects the details of the transaction that took place between the petitioner and the supplier, viz., M/s.Megha Enterprises and that the petitioner is liable to discharge any service tax liability, the respondent ought to have called upon the petitioner's objections before passing the impugned order, and heard the petitioner before taking such drastic action, and in the absence of such procedure adopted by the respondent, the impugned order has to be set aside, as the same suffers from violation of principles of natural justice. Thus, this Court is inclined to pass the following orders/directions:-

i) The impugned order dated 10.02.2025 passed by the respondent is set aside subject to the condition that the petitioner deposits 10% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

ii) Consequently, the matter is remanded to the respondent for fresh consideration, in which case, the respondent is directed to issue a show cause notice calling forth petitioner's reply/objections.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) 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.

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 Deputy Commissioner (GST-CT)
161-Meenakshi Sundaranar Salai,
CSI Institutions Campus, Brough Road,Erode.

Krishnan Ramasamy,J.,

sd

W.P.No.13714 of 2025

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