IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13843 of 2025
and
W.M.P.Nos.15549 & 15550 of 2025

M/s.LalithakumariChavva,
Proprietrix M/s.Lucent Techno Engineers,
No.3/27, Sastha Nagar,
Villivakkam,
Chennai- 600 049. ...Petitioner

Vs.

1. The Deputy State Tax Officer-I,
   Villivakkam Assessment Circle,
   PAPJM Buildings, ANNEX,
   2nd Floor, No.1, Greams Road,
   Chennai- 600 006.

2. The Assistant Commissioner (State Tax),
   Villivakkam Assessment Circle,
   No.1 PAPJM Annex Building,
   2nd Floor, 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 Certiorarified Mandamus to call for the records of the first respondent in Show Cause Notice vide Reference No.ZD330823118600R dated 21.08.2023 and the consequential order passed in GSTIN:33AHGPC7587H1Z8/2019-20 dated 28.08.2024 and quash the same as illegal, erroneous and without jurisdiction and further direct the 2nd respondent to lift the bank attachment issued in GSTIN:33AHGPC7587H1Z8 in DRC-13 dated 15.03.2025.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

Order

Ms.P.Selvi, learned Government Advocate (Taxes), 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 dated 21.08.2023 passed by the first respondent in the Show Cause Notice vide Reference No.ZD330823118600R dated 21.08.2023 and the consequential order passed in GSTIN:33AHGPC7587H1Z8/2019-20 dated 28.08.2024 and quash the same as illegal, erroneous and without jurisdiction and further direct the 2nd respondent to lift the bank attachment issued in GSTIN:33AHGPC7587H1Z8 in DRC-13 dated 15.03.2025.

3. The learned counsel for the petitioner would submit that the petitioner's registration was cancelled on 30.09.2019. Subsequently, the first respondent has issued a show cause notice as well as the reminder notices to the petitioner and the same were uploaded in the GST portal. Since the Petitioner's GST registration was cancelled the petitioner has not viewed the GST Portal and therefore not aware of the said notices. Hence, the petitioner could not file her reply. Since the petitioner failed to file reply to the said show cause notice, the first respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Subsequently, recovery notice was issued by the respondent on 15.03.2025. Only after the initiation of the recovery proceedings, the petitioner came to know of the impugned order.

4. Further, he 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.

4.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 10% of the disputed tax. Hence, he prayed for appropriate directions.

5. The learned Government Advocate (Taxes) for the respondents 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.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the

impugned show cause notice along with reminder notices were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. No doubt sending notice by uploading in portal is a sufficient service, but, the Officer who sending repeated reminders, inspite of the fact that no response from the petitioner to the show cause notice, the Officer should explore the possibility of sending notices by way of other modes, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities.

7. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned order by issuing the following directions:-

i) The impugned order passed by the first respondent dated 21.08.2023 is set aside.

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

iii) The petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves had voluntarily came 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 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.

vi) Upon production of proof with regard to the payment of 10% of the disputed tax made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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