IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :25.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15075 of 2025
and
W.M.P.Nos.16982 & 16984 of 2025

M/s Prasanna Precision Tools
rep by its Prop Mr. T. Govindarajan
No 39 A Padi Chennai Nehru Street
T M P Nagar Anna Nagar
Tiruvallur Tamilnadu 600 050 Petitioner

Vs.

The Assistant Commissioner (ST)
Padi Assessment Circle 4Th floor T. Block No 19
Integrated commercial Taxes and Registration Department
South Tower Nandhanam Chennai 600 035
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 from the file of the Impugned Order issued by the respondent electronically in Common Portal vide FORM GST DRC-07 Ref. No. ZD330824133028K dated 16.08.2024 and to qUASH the same with consequential relief to DIRECT the respondent to defreeze the current account No. 510909010014210 and saving account No. 500101010429429 both maintained with City Union Bank Reddiarpalayam Branch Puducherry.

For Petitioner : M/s.S.Akila
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.S.Akila, 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 16.08.2024 and to quash the same with consequential relief to direct the respondent to defreeze the current account and saving account of the petitioner both maintained with City Union Bank Reddiarpalayam Branch Puducherry.

3. The learned counsel for the petitioner would submit that the show cause notice and the reminders, which culminated in the the impugned order have been merely uploaded in the GST portal and not served on the petitioner by any other mode of service, therefore, there has been no proper service of show cause notice, and therefore, the impugned assessment order passed by the respondent suffers from violation of principles of natural justice and is liable to be aside. It is further submitted that, the respondent, in furtherance of the impugned order, already initiated recovery proceedings against the petitioner by attaching the petitioner's bank accounts, whereby, more than 25% of the disputed tax has been recovered. Therefore, the learned counsel seeks for appropriate orders.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated that the 25% of the disputed tax has already been recovered from the petitioner's account, subject to the verification of the same, 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. 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 was 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. Further, the original of the said show cause notice was not furnished to the petitioner. 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.

6.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices, instead of sending repeated reminders, should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

6.2 Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice. 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, considering the statement made by the petitioner that 25% of the disputed tax has already been recovered from the petitioner's bank account, this Court is inclined to pass the following orders/directions:-

i) The impugned order dated 16.08.2024 passed by the respondent 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 came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order, in the event 25% of the disputed tax has already been recovered from the petitioner, the petitioner need not make any further payment.

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.

vi) So far as the bank attachment order is concerned, respondent-Department, upon verification of the proof with regard to the payment of

25% made by the petitioner is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account 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 Petition is closed.

25.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)
Padi Assessment Circle 4Th floor T. Block No 19
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Krishnan Ramasamy,J.,

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