IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16982 of 2025
and
W.M.P.Nos.19275 & 19277 of 2025

SREE KRISHNA POWER ENGINEERING AND
CONSULTANCY PVT LTD
Rep by its Managing Director, Mr.THOLKAPPIYACHELVAN.
...Petitioner

Vs.

1. The State Tax Officer
(Formerly known as Deputy Commercial Tax Officer,
Selaiyur : Tambaram : Chengalpattu
Room No.341, 3rd Floor,
Commercial Taxes and Registration Department Buildings,
Nandanam, Chnennai – 600 035.

2. The State Tax officer
Group- VII Chengalpattu Intelligence
Chengalpattu- 603 101.

3. The Deputy Commissioner (ST) (FAC)
Tambaram Zone 4th Floor Room No.422
Commercial Tax Dept, PAPJM Building
No.1 Greams Road Chennai -06.

4 The Branch Manager
Bank of India No.9 Rajaji Road,
West Tambaram, Chennai.

5 Tvl. Parbati Koldam Transmission Company Limited
HADBAST NO.187 Vill. Chotti Gardhon
Rup Nagar Punjab- 140 001.

6. Tvl.Power Grid Corporation of India Limited
Plot No.2A/ INS 02 Avadh Vihar Yojna
Amar Saheed Path Lucknow Uttar Pradesh 226 002.

7. Tvl. Mahindra and Mahindra Limited
First Floor 17/18 Mahindra Towers
Pattulous Road Anna Salai Chennai-600 002.

...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 records in Reference Number ZD330424242882G/2018-19 dated 29.04.2024 on the file of the 1st respondent and quash the same as contrary to law and consequently, to direct the 3rd Respondent to de-freeze the bank account bearing GSTIN : 33AAMCS7313M1ZO/2018-19 dated 25.02.2025 of the Petitioner-Registered Taxable Person.

For Petitioner : Mr.S.Ramanan

For Respondents 1 to 3 : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.S.Ramanan learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of the respondents 1 to 3. 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 first respondent dated 29.04.2024 and to quash the same, and consequently, to direct third respondent to de-freeze the bank account of the petitioner.

3. Mr.S.Ramanan learned counsel appearing for the petitioner would submit that the first respondent issued a notice in Form DRC-01 dated 16.02.2022 to which, the petitioner filed their reply dated 27.04.2024; that subsequently, the second respondent also issued a notice, viz., DRC-01A dated 27.04.2024, to which even, the petitioner filed their reply along with supportive documents, pursuant to which, the second respondent issued an intimation regarding conclusion of proceedings dated 19.06.2024; that while that being so, the first respondent had proceeded to pass the impugned order dated 29.04.2024. Further, it is the submitted by the learned counsel that since the second respondent has already concluded the proceedings on 19.06.2024, the petitioner was under the impression that the entire assessment proceeding for the subject year had been completed/settled through the demand order passed by the second respondent dated 19.06.2024, however, the first respondent passed the impugned order without even hearing the petitioner, which is in violation of principles of natural justice and hence, the learned counsel prays for setting aside the same and to remand the matter back to the first respondent for re-consideration.

4. Mr.V.Prashanth Kiran, learned Government Advocate (T) for the respondent-Department would submit that pursuant to the issuance of a show cause notice in Form DRC-01 by the first respondent along with personal hearing opportunity, the petitioner has filed their reply and also appeared for the personal hearing, however, since the reply filed by the petitioner was found to be unsatisfactory, the first respondent proceeded to confirm the proposals contained in the show cause notice and passed the impugned order, and therefore, it is not open to the petitioner to contend that no personal hearing opportunity was provided. The learned Government Advocate further submitted that if at all, the petitioner is aggrieved by the impugned order, they have to be necessarily, relegated to the Appellate Authority for agitating the issue by way of Appeal.

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

6. In the present case, there is no dispute on the aspect that after issuance of the notice in Form DRC-01 by the first respondent dated 16.02.2022, the petitioner has filed their detailed reply and also appeared for the personal hearing and after taking into consideration of the said reply, the respondent passed the impugned order, as the contention of the petitioner/taxpayer was not found comprehensive by the first respondent. Therefore, the petitioner can have no say that they have not been heard before passing the impugned order. Though the petitioner vide this Writ Petition makes an attempt to persuade this Court to arrive at a conclusion that the reply filed by the petitioner was not appreciated by the first respondent in a proper perspective, unless and until, this Court finds any violation of principles of the natural justice or arbitrariness while passing the impugned order, the same cannot be interfered with by this Court.

6.1. Therefore, as rightly pointed out by the learned Government Advocate for the respondent-Department, if the petitioner is aggrieved by the impugned order, alternate remedy available to the petitioner is to challenge the assessment order by way of filing an Appeal before the Appellate Authority.

7. In the result, the Writ Petition is dismissed leaving it open to the petitioner to file an Appeal against the order that is impugned herein before the Appellate Authority. In the event, the petitioner is desirous of availing such Appellate Remedy by way of complying with the mandatory deposit of 10% of the deposit, in addition to the same, the petitioner shall deposit 5% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order, in which case, the Appellate Authority is directed to entertain the Appeal without raising any issue on the limitation aspect. Since it is brought to the notice of this Court that in furtherance of the impugned order, the petitioner's bank account has been attached, upon production of proof with regard to the payment of 15% of the disputed tax made by the petitioner, the respondent-Department is directed to issue appropriate direction towards de-freezure of the petitioner's bank account and to permit the petitioner to operate the account forthwith. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.06.2025

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Index : yes/no
Neutral Citation : yes/no

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