IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.20488 of 2025
and W.M.P.Nos.23133 & 23134 of 2025

M/s.Pravena Creations,
8/3018, Karuparayan Kovil 1st Street,
Pandian Nagar,
Tirupur – 641 602.
Represented by its Partner Mr.Sivagnanamoorthi

...Petitioner

Versus

Assessment Unit,
Faceless Assessment Department,
Income Tax Department,
2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi – 110 003.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the Respondent leading to issuance of Impugned Order dated 01.03.2024 (vide ITBA/AST/S/147/2023-24/1061804719(1)), consequential Order dated 17.09.2024 (vide ITBA/PNL/F/270A/2024-25/1068811759(1)), consequential Order dated 17.09.2024 (vide ITBA/PNL/F/271A/2024-

25/1068811832(1)), consequential Order dated 17.09.2024 (vide ITBA/PNL/F/271B/2024-25/1068811791(1)) and consequential Order dated 17.09.2024 (vide ITBA/PNL/F/272A(1)(d)/2024-25/1068812589(1)) and quash the same.

For Petitioner	:	Mr.K.M.C.Arunmokan
For Respondent	:	Dr.B.Ramaswamy, Senior Standing Counsel

ORDER

Dr.B.Ramaswamy, learned Senior Standing Counsel takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The present writ petition has been filed by the petitioner seeking to quash the Order dated 01.03.2024 bearing DIN: ITBA/AST/S/147/2023-24/1061804719(1), consequential Order dated 17.09.2024 bearing DIN: ITBA/PNL/F/270A/2024-25/1068811759(1), consequential Order dated 17.09.2024 bearing DIN: ITBA/PNL/F/271A/2024-25/1068811832(1), consequential Order dated 17.09.2024 bearing DIN: ITBA/PNL/F/271B/2024-25/1068811791(1) and consequential Order dated

17.09.2024 bearing DIN: ITBA/PNL/F/272A(1)(d)/2024-25/1068812589(1).

4. The case of the petitioner is that the petitioner firm was engaged in the business of manufacturing and supply of garments. During the year 2017, the petitioner incurred severe loss in their business which led to disagreements between the partners of the petitioner firm. Hence, the petitioner failed to file their Income Tax Return for the A.Y.2019-20. Even in the succeeding year, the petitioner had continuously incurred heavy loss in their business. Therefore, the petitioner firm surrendered their GST Registration, pursuant to which, the petitioner's GST Registration was cancelled by the Department vide order dated 03.01.2023.

5. Thereafter, the petitioner firm was not involved in any business activities. Hence, the petitioner firm did not file its returns and also, did not check the Income Tax Portal from the year 2023.

6. In this background, the petitioner came to know that its Bank Account was attached by the respondent. When the petitioner enquired the

same with its Banker, the petitioner was informed about the issuance of Show Cause Notice dated 18.02.2024 and the impugned Assessment Order dated 01.03.2024 passed by the respondent.

7. Subsequently, the petitioner was issued with four consequential Penalty Proceedings dated 17.09.2024 under Sections 270A, 271A, 271B & 272A(1)(d) of the Income Tax Act, 1961 (hereinafter referred to as "IT Act") by the respondent. Aggrieved over the same, the petitioner has filed this writ petition.

8. The learned counsel for the petitioner submitted that the show cause notice, impugned order and the consequential penalty proceedings were merely uploaded in the Income Tax Portal. Since the petitioner firm had surrendered their GST Registration and the petitioner's GST Registration was cancelled by the Department as early as on 03.01.2023, the petitioner could not have access over the Income Tax Portal.

8.1. It is further submitted that the petitioner came to know about the attachment of its Bank Account, issuance of show cause notice and the impugned Assessment Order passed by the respondent only through its Banker.

8.2. The learned counsel for the petitioner submitted that the impugned order and all the consequential penalty proceedings were issued on the basis of the erroneous information obtained from INSIGHT PORTAL that during the A.Y. 2019-20, the petitioner had made exports amounting to Rs.1,76,62,997/- and foreign remittances to the tune of Rs.759/- and the petitioner had earned total income of Rs.63,66,169/- through TDS payments.

8.3. It is submitted that the impugned order and the consequential penalty proceedings passed by the respondents suffer from violation of the principles of natural justice since prior to the passing of impugned order as well as the consequential penalty proceedings, no opportunity of hearing was provided to the petitioner to put forth their case.

8.4. The learned counsel for the petitioner also submitted that the petitioner is ready and willing to pay a sum of Rs.5 Lakhs to the respondent-Department, in the event, this Court is inclined to quash the impugned order and remand the case back to the respondent for fresh consideration.

9. The learned Senior Standing Counsel appearing for the respondent fairly submitted that since the petitioner has willingly come forward to pay a sum of Rs.5 Lakhs to the respondent-Department, the prayer sought for by the petitioner may be considered.

10. Taking into consideration of the submissions made by the learned counsel on either side and upon perusing the materials available on record, there is no dispute on the aspect that the show cause notice, impugned order and the consequential penalty proceedings were merely uploaded in the Income Tax Portal and the same were unnoticed by the petitioner and hence, the petitioner could not file reply to the show cause notice and appear for the personal hearing.

11. The facts on record reveal that since the petitioner firm had surrendered their GST Registration and the petitioner's GST Registration

was cancelled by the Department as early as on 03.01.2023, the petitioner could not have access over the Income Tax Portal and the petitioner came to know about the attachment of its Bank Account, show cause notice and impugned Assessment Order passed by the respondent only through its Banker.

12. In the present case, the respondent has passed the impugned order without even affording any opportunity of hearing to the petitioner. As rightly pointed out by the learned counsel for the petitioner that the impugned order and the consequential penalty proceedings passed by the respondent suffers from violation of the principles of natural justice.

13. Thus, once the order is passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. However, since the petitioner has voluntarily come forward to pay Rs.5 Lakhs to the respondent-Department, to which, the learned Senior Standing Counsel for the respondent are also agreeable, this Court is inclined to issue the following directions:-

(i) The impugned order dated 01.03.2024 and the four consequential penalty proceedings dated 17.09.2024 issued by the respondent are quashed.

(ii) Consequently, the case is remanded back to the respondent for fresh consideration.

(iii) Liberty is granted to the petitioner to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) to the respondent-Department, within a period of four weeks from the date of receipt of a copy of this order.

(iv) Since the petitioner's GST Registration was cancelled by the Department vide order dated 03.01.2023, the petitioner is directed to give a proper representation to the respondent-Department to make the Income Tax Portal accessible for filing its Reply.

(v) On receipt of such representation from the petitioner, the respondent shall make the Income Tax Portal accessible to the petitioner so as to enable the petitioner to file its Reply.

(vi) The petitioner is directed to file its Reply in the Income Tax Portal, within a period of three weeks from the date of receipt of a copy of this order.

(vii) Upon filing of Reply by the petitioner, the respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner and thereafter, the respondent shall decide the case in accordance with law, within a period of eight weeks.

(viii) So far as the attachment made in petitioner's Bank Account is concerned, it is needless to state that once the impugned order is quashed, the order of attachment cannot survive any longer and the same has to be given a go-by by the respondent-Department. Hence, the respondent-Department is directed to issue appropriate direction to the petitioner's Banker to de-freeze the petitioner's Bank Account forthwith.

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

10.06.2025

mrr

Index: Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order

To

Assessment Unit,
Faceless Assessment Department,
Income Tax Department,
2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
New Delhi – 110 003.

KRISHNAN RAMASAMY, J.

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