IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 23005 of 2024
AND
WMP NO. 25090 OF 2024,WMP NO. 25088 OF 2024

Penchalaiah Enterprises,
Rep by its proprietor, Penchalaiah,
S/o.Penchalnian, 26, Sudhanthira Nagar
4th Street, Lloyds Road, Triplicane,
Chennai – 600005.

Petitioner(s)

Vs

1. The State Tax Officer
Thiruvallikeni Assessment Circle,
No.420, 4th Floor,
Integrated Commercial Taxes And
Registration Department Building,
Nandanam, Chennai-600 035.

2.The Deputy Commercial Tax Officer
Thiruvallikeni, South - I,
Chennai South.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondents in No.ZD331223192455H, dated 25.12.2023 and to quash the same and consequently direct the 2nd respondents to give opportunity for the petitioner to settle the balance pending Total GST amount of Rs.52,25,572.36/- (Pending GST till date, excludes Interest and penalty) by the way installment.

For Petitioner(s): Mr.S.Elankumaran

For Respondent(s): Mr.T.N.C.Kaushik, Additional Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records relating to the order of the 2nd respondents in No.ZD331223192455H, dated 25.12.2023 and to quash the same and consequently direct the 2nd respondents to give opportunity for the petitioner to settle the balance pending Total GST amount of Rs.52,25,572.36/- (Pending GST till date, excludes Interest and penalty) by the way installment.

2.Learned counsel for the petitioner would submit that the petitioner is having an Enterprises and their primary activity is to supply man power to Tvl.Royal Enfield and receive monthly payment for the same from the said trade creditors. The petitioner is 71 years old senior citizen and he illiterate person and thus he appointed some accountant in his office for the purpose of maintaining the tax properly. In such circumstances, the said persons failed to do their work properly and therefore, the petitioner was forced to relieve them. Due to the petitioner's age factor, he was frequently bedridden from 2017 and spent huge medical expenses for his treatment. Unfortunately, the staff person has not paid the sale tax regularly. This made the petitioner as defaulter to the respondents, which is neither willful nor wanton. Consequently, the respondents passed an *ex parte* impugned assessment order dated 25.12.2023 and the bank account of the petitioner also freezed.

3.He would further submit that the petitioner was not aware of the proceedings initiate against his Enterprises. After receiving the said impugned order, the family members of the petitioner paid a sum of Rs.2,02,858/- in order clear some default as mentioned in the notice. Thereafter, as per the oral instruction of the State Tax Officer, they paid a sum of Rs.1,02,858/- to defreeze their bank account and the petitioner also made a representation to defreeze their bank account on 30.03.2024. Subsequently, the respondents without the consent of the petitioner debited a sum of Rs.6,85,000/- from the petitioner's account and the bank account of the petitioner has not been defreezed till date. Unless and otherwise the respondents defreeze the petitioner's bank account, the petitioner will be put into grave hardship and irreparable loss.

4.He would also submit that the impugned order is an *ex parte* order and now, the petitioner is ready and willing to pay a sum of Rs.5,00,000/- of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to putforth their case by way of reply/objections and provide an opportunity of personal hearing.

5.Learned Additional Government Pleader appearing for the respondents would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of Rs.5,00,000/- of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents, it is evident that since the petitioner is 71 years old and illiterate, he has no knowledge of the GST portal. Due to his age factor he was frequently admitted in a hospital. The accountants appointed by him were also failed to file the tax properly. According to the petitioner, the petitioner was not aware of the proceedings initiated aginst him. 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.

8.Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner to establish their case. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

> (i) The order impugned herein is set aside on condition that the petitioner deposits a sum of Rs.5,00,000/- of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of two months from the date of receipt of a copy of this order.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
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> (iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and

in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Upon production of proof with regard to the payment of Rs.5,00,000/- of the disputed tax made by the petitioner, the respondents Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

9.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

04-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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KRISHNAN RAMASAMY J.

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