IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 27450 of 2025
AND
WMP NO. 30820 OF 2025,WMP NO. 30821 OF 2025

Vadapalani Murugan Industries Pvt Ltd.,
Represented by its Director, P.Murugan,
No.12,1st Floor, Bye-Pass Road,
Ponnamalle, Chennai 56.

Petitioner(s)

Vs

The Commercial Tax Officer,
Poonamallee Assessment Circle,
4/109, Third Floor, Bangalore Chennai
Highway, Varadarajapuram,
Nazarathpet Chennai 123.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling upon the records of the impugned order of the respondent in order and summary of order bearing Reference No. ZD3312240211527 dated 03.12.2024 and quash the same and consequently direct the Respondent to entertain the records, documents and reply from the Petitioner and then pass order after affording a personal hearing to the Petitioner.

For Petitioner(s): Mr.M.Hariharan

For Respondent(s): M/s.Amirta Poonkodi Dinakaran
Government Advocate (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 03.12.2024, passed by the respondent, relating to the Tax period 2020-21.

2.Learned counsel for the petitioner would submit that the petitioner was issued with the intimation notice dated 31.10.2022 in Form GST DRC-01A, alleging that the petitioner had wrongly availed Input Tax Credit. In response, the petitioner filed their reply on 18.11.2022 and 19.11.2022. Thereafter, the respondent neither issued any notice nor proceeded further in relation to the intimation notice for almost two years. On 07.06.2024, the respondent issued show cause notice in Form DRC -01 despite receiving the replies dated

18.11.2022 & 19.11.2022 with supporting documents. The respondent also issued reminder notices dated 08.07.2024, 16.09.2024 and 03.10.2024 fixing the date for personal hearing As per the reminder notice dated 03.10.2024, the petitioner was instructed to appear for personal hearing on 10.10.2024 and the petitioner also appeared for the same. However, it was informed to the petitioner that the officer of the respondent Department was not available on that day and the next date of hearing will be informed to the petitioner.

3.He would further submit that the petitioner vide letter dated 14.10.2024, intimated the respondent about the absence of their official on 10.10.2024 and requested for an opportunity of personal hearing. However, the respondent without considering the petitioner's request for personal hearing and the earlier replies filed by the petitioner, had confirmed the proposals made in the show cause notice. Hence, he prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

4.Learned Government Advocate appearing for the respondent admitted the fact that two replies were filed by the petitioner on 18.11.2022 and 19.11.2022. However, she would submit that after the issuance of DRC-01, two reminder notices dated 08.07.2024 and 16.09.2024 were sent calling upon the petitioner to appear in person. Since the petitioner failed to appear on those days, once again on 10.10.2024, another personal hearing opportunity was provided. Admittedly, the Officer of the respondent Department was not available on 10.10.2024. Thereafter, the impugned order came to be passed. However, she refers the failure on the part of the petitioner to appear in person on earlier occassions and objected for setting aside the impugned order.

5.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on records.

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent, it is evident that the petitioner has filed replies on 18.11.2022 & 19.11.2022 for the DRC-01A dated 31.10.2022. Thereafter, DRC-01 was issued on 07.06.2024 and three reminder notices dated 08.07.2024, 16.09.2024 & 03.10.2024 were issued fixing the personal hearing date. The petitioner appeared for personal hearing on 10.10.2024 as directed in the third reminder notice dated 03.10.2024. On the said date, the Officer of the respondent Department was not available. Therefore, no personal hearing was conducted on 10.10.2024 and it was informed to the petitioner that the next date of hearing will be intimated to him. Subsequently, the petitioner vide representation dated 14.10.2024, requested for personal hearing. However, the respondent without considering the same, had confirmed the proposal made in the show cause notice and passed the impugned order dated 03.12.2024. According to the respondent, though three reminder notices were issued fixing the date of personal hearing, the petitioner appeared only on the third personal hearing and on earlier two occassions, the petitioner had failed to appear before the respondent and therefore, the impugned order came to be passed.

7.In view of the above, this Court feels that when the officials of the respondent Department was not available on the date of personal hearing provided by them, they supposed to have fix another date for personal hearing. The orders cannot be passed citing the failure on the part of the petitioner to appear on the earlier personal hearings fixed by the respondent. In the present, even though the petitioner made a represenation requesting for personal hearing, the respondent without considering the same, has passed the impugned assessment order, which is violation of principle of natural justice. Thus, this Court finds fault in the decision making process of the respondent. Accordingly, this Court pass the following orders:-

(i) The order impugned herein is set aside and the matter is remanded back to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 7 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.

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

31-07-2025

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

To

The Commercial Tax Officer,
Poonamallee Assessment Circle,
4/109 third floor, Bangalore chennai
Highway, Varadarajapuram,
Nazarathpet, Chennai 123.

KRISHNAN RAMASAMY J.

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