IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27175 of 2025
and
W.M.P.Nos.30495 & 30500 of 2025

Sri Kamesh Crane Service
Rep. by its proprietor, Narayanan Rajesh,
No.1/469, Anna Street,
Lakshmi Nagar East, Mudichur,
Mannivakkam,
Chennai 48.

Petitioner

Vs.

State Tax Officer,
Thirumudivakkam Assessment Circle,
Room Nos.123 & 124, Greenways Road,
Mylapore Taluk Office Building,
Chennai- 600 028.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned order on the file of the 1st respondent in DRC-07 Ref.No.ZD330225231731U dated 22.02.2025 passed under Section 73 of the Tamil Nadu Gooods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 herein after referred to as GST Act, 2017 and quash the same as illegal and devoid of merits.

For Petitioner : Ms.J.Yazhini
for Mr.T.Suresh

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

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ORDER

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), 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 dated

22.02.2025 passed by the respondent for the AY 2020-21 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice dated 25.11.2024 followed by three reminders on 27.12.2024, 06.01.2025 and 13.01.2025 to the petitioner by uploading the same in the GST portal. That apart, the respondent alleged to have sent the show cause notice by Registered post with acknowledgment due to the petitioner and the same was returned by postal authorities on 07.02.2025 with an endorsement "Closed". Further, he would submit that on the relevant day i.e., on 07.02.2025, the petitioner along with his family went to their relative place due to personal emergency and therefore the place of buisness was closed during the relevant day. Therefore, petitioner was not aware of notices and hence failed to file its reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. 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 and the original of the said show cause notice along with reminder notices were sent to him by way of registered post and it was returned as "closed" for the reason that on the relevant day i.e., on 07.02.2025, the petitioner along with his family went to their relative place due to personal emergency and therefore the place of buisness was closed during the relevant day. Therefore, the petitioner was not aware of the notices sent to him. That apart, it is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

6. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 22.02.2025 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 had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first 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) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards defreezure of the petitioner's bank account forthwith.

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

25.07.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

State Tax Officer,
Thirumudivakkam Assessment Circle,
Room Nos.123 & 124, Greenways Road,
Mylapore Taluk Office Building,
Chennai- 600 028.

Krishnan Ramasamy,J.,

arr

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