IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27908 of 2025
and
W.M.P.Nos.31279 and 31282 of 2025

M/s. IM Services,
Represented by its Partner N. Murali,
No 16/38, Maharaja Surya Road,
Teynampet, Chennai 600018

...Petitioner

Vs.

The State Tax Officer
Alwarpet Assessment Circle,
No.207, 2nd Floor, Integrated Registration and
Commercial Taxes Building,
Government Farm Village,
Nandanam, Chennai-600 035.

...Respondent

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 records in the order passed by the respondent in the impugned order dated 05.02.2025 in GSTN-33AAHFI6821J1ZC/ 2020-21 and Summary of the order in Form DRC-07/ in Ref.No.ZD330225039246N dated 05.02.2025 and quash the orders as arbitrary and illegal.

For Petitioner : Mr.A.Thirumaran

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

Order

Mrs.K.Vasanthamala, 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 05.02.2025 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 14.08.2023, followed by reminder notice dated 11.01.2025 and the same was uploaded in the GST portal. The reminder notice was also sent through RPAD and the same was returned. Therefore, the petitioner was not aware of those notices and hence failed to file reply. 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.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that initially show cause notice was issued to the petitioner by uploading the same in the GST portal. As the petitioner had not filed the reply, reminder notice was sent to the petitioner by uploading in the GST portal as well as by way of RPAD and the same was returned as unserved on account of pongal holidays. However, he would fairly submit 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. Heard both sides. Perused the records.

6. In the case on hand, though it stated by the learned Government Advocate (Taxes) appearing for the respondent that the reminder notice was also sent to the petitioner by way of RPAD, apart from uploading in the GST portal, the reminder notice sent to the petitioner by way of RPAD was returned as '***Unserved***', on account of postal holidays.

7**.** 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.

8. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore in the interest of justice, this Court in inclined to set aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 19.02.2025 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 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.

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

30.07.2025

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

To

The State Tax Officer
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No.207, 2nd Floor, Integrated Registration and
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Nandanam, Chennai-600 035.

Krishnan Ramasamy,J.,

arr

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