IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28848 of 2025
& W.M.P.Nos.32350, 32351 & 32356 of 2025

RK Construction,
Rep. by its Managing Partner - R.Kumar,
13/7/4, Sankari Main Road,
Chinnagoundampatty,
Tharamangalam, Omalur,
Salem, Tamil Nadu - 636 502. ... Petitioner

Vs.

1.State Tax Officer,
Data Analysis Unit-II,
Intelligence, Salem,
Integrated Commercial Taxes Building,
Pitchards Road, Hastampatty,
Salem - 636 007.

2.Deputy Commissioner (GST Appeals)
Salem and Erode,
Integrated Commercial Taxes Building,
Pitchards Road, Hastampatty,
Salem - 636 007.

3.The Bank Manager,
State Bank of India,
Chinnayan Tower,
120/2 and 3, Cherry Road,
Salem - 636 007. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in GSTIN No: 33AAGFR2894F1Z4/2024-2025 on the files of the first respondent and quash the impugned order dated 22.10.2024 for the FY 2024-2025.

For Petitioner : M/s.Divya.A

For Respondents 1 & 2 : Ms.Amirta Poonkodi Dinakaran, Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order dated 22.10.2024 passed by the first respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondents 1 & 2. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the show cause notice dated 28.08.2024 came to be issued by the

first respondent, for which the petitioner has also submitted their reply on 16.10.2024. However, without considering the said reply and affording an opportunity of personal hearing, the first respondent passed the impugned order dated 22.10.2024, stating that the tax payer has not produced any supporting documents to substantiate their contentions. Challenging the said order, the petitioner has filed this writ petition.

4. Further, she would submit that since the period to file an appeal against the aforesaid assessment order had already been expired, she requests this Court to grant an opportunity to the petitioner to present their case before the respondents by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents 1 & 2 submitted that the an opportunity of personal hearing was afforded to the petitioner on 27.06.2024, but the petitioner was not appeared before the assessing officer, hence the impugned assessment order was passed. Even if this Court is inclined to remit back the matter to the respondents, the same would be considered and appropriate orders will be passed in accordance with law.

6. Heard the learned counsel for the petitioner and and the learned Government Advocate for the respondents 1 & 2 and also perused the materials available on record.

7. In the case on hand, initially the show cause notice dated 28.08.2024 came to be issued by the first respondent. Subsequently, the petitioner has filed a reply dated 16.10.2024 to the said show cause notice. However without considering the same, the first respondent passed the impugned order dated 22.10.2024.

8. Further, it was contended by the petitioner that no opportunity of personal hearing was provided to them prior to the passing of impugned order. Normally, if the respondent is intend to pass any adverse order against the Assessee, under Section 75(4) of the GST Act, 2017, it is mandatory for them to provide an opportunity of personal hearing prior to the passing of assessment order. However, in this case, no such opportunity of personal hearing was provided to the petitioner and thus, it is clear that the impugned order came to be passed not only in contrary to

the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice and hence, the said order is liable to be set aside. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.10.2024 is set aside and the matter is remanded to the first respondent for fresh consideration.

(ii) The petitioner shall file their reply dated 16.10.2024/objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(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) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the concerned respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

05.08.2025

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

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KRISHNAN RAMASAMY.J.,

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