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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.08.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29078 of 2025
and
W.M.P.Nos.32624 to 32626 of 2025

ARUNODAYA GEARS
Represented by its Proprietrix
Mrs A.Sangeetha, No.280/A,
Gramani Street Station Road
KORATTUR Chennai 600 080. ..Petitioner

Vs.

1 THE ASSISTANT COMMISSIONER (ST)
KORATTUR ASSESSMENT CIRCLE
ROOM NO.330 3RD FLR,
INTEGRATED COMMERCIAL TAXES AND
REGISTRATION DEPARTMENT
(SOUTH TOWER) NANDANAM
CHENNAI-600 035.

2 The Deputy Commissioner (ST)
AMBATTUR ZONE, Greams Road,
Chennai 600 006.

3 The Branch Manager
State Bank of India K.K. Nagar Branch
Chennai 600 078. ...Respondents

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records in Reference Number ZD :330 225 157 0004/2021-22 dated 17.02.2025 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 2nd Respondent to Defreeze the bank account No. 64 18 49 22 778 bearing GSTIN : 33 BY CPS 746 0K1 Z1/2021-22 of the Petitioner

For Petitioner : M/s.V.Vijayalakshmi

For Respondents 1 and 2 : Ms.P.Selvi
Government Advocate (T)

Order

Heard M/s.V.Vijayalakshmi learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who takes notice on behalf of the respondents 1 and 2. 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 passed by the first respondent dated 17.02.2025 and to quash the same, consequently, to direct the 2nd Respondent to de-freeze the bank account of the Petitioner.

3. The learned counsel for the petitioner would submit that the

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petitioner was totally unaware of the impugned order passed against her and only when her bank account came to be attached by the second respondent, she came to know that all the notices/reminders/show cause notice, whch culminated in the impugned order, were uploaded by the first respondent via. GST Portal, which even the petitioner's Consultant failed to communicate to the petitioner, but, the first respondent without hearing the petitioner, passed by the impugned order.

3.1 Hence, the learned counsel for the petitioner contended that the impugned assessment order passed by the first respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel for the petitioner that the petitioner is ready and willing to pay 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondents 1 & 2 fairly submitted that since the petitioner has voluntarily come forward to

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deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. 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 and reminders were not directly served on the petitioner through physical mode of service but was only uploaded on the GST Portal Tab, under the 'Additional Notices/Orders'tab, which neither the petitioner nor the Consultant engaged by the petitioner for GST compliances, have noticed. 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, confirming the proposals contained in the show cause notice.

6.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the

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show cause notices, should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

6.2 Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice. Thus,

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once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first respondent dated 17.02.2025 is set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have 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 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

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and

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, second respondent is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : yes/no
Neutral Citation : yes/no

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