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

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29062 of 2025
and
W.M.P.Nos.32603 & 32604 of 2025

NATIONAL MOBILES
Represented by its Proprietor Ibhrahim Gani
No.305 N.S.Gani Building Bazaar Street
Old Bridge Road Pudupatinam
Kancheepuram - 603102

Vs.

1 THE DEPUTY COMMISSIONER (CT)
O/O.THE DEPUTY COMMISSIONER (ST)
GST APPEAL CHENNAI I 2ND FLLOR,
MAIN BUILDING ROOM NO.210,
NO.1 GREAMS ROAD CHENNAI-600 006.

2 The Assistant Commissioner (ST)
Thirukazhukundram Assessment Circle
No.42- Wahab Nagar Thirukazhukundram -603 109

...Respondents

Prayer

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 of the 2nd respondent's demand order made in Reference No. ZD331123149378G dated 24.11.2023 and the 1st Respondent order in

Reference Number ZD331124016625T dated 05.11.2024 and quash the same and consequently direct the respondent to given an opportunity of personal hearing

For Petitioner	:	Mr.P.Suresh Babu
For Respondents	:	Mrs.K.Vasanthamala Government Advocate (T)

Order

Heard Mr.P.Suresh Babu learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondents. 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 2nd respondent demand order dated 24.11.2023 and the 1st Respondent order dated 05.11.2024 and to quash the same and consequently direct the respondent to given an opportunity of personal hearing to the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner was not aware of the impugned passed by the second respondent dated 24.11.2023, as the same was not directly served on the petitioner and was only uploaded in the Portal, however, the petitioner aggrieved by the said impugned order preferred an appeal before the first respondent by making a pre-deposit of 10% of the disputed tax, but the same dismissed by the impugned order dated 05.11.2024 on the ground of delay, and hence, the petitioner has approached this Court by way of present Writ Petition seeking to set aside both the impugned orders and to afford an opportunity of hearing to the petitioner and to decide the matter in accordance with law. It is further submitted that the petitioner is ready and willing to deposit 15% of the disputed tax, in the event, this Court is inclined to set aside the impugned orders and issued appropriate directions in that regard.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already deposited 10% of the disputed tax while preferring appeal and has now voluntarily came forward to deposit 15% of the disputed tax, this Court may pass appropriate orders, as it deems fit and proper.

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

6. Admittedly, there is no dispute on the aspect that the impugned Assessment Order passed by the second respondent dated 24.11.2023 is an ex parte order, as the petitioner has not been heard before passing the same, since, all the show cause notices and other allied communications, which culminated in the impugned assessment order have been merely uploaded in the GST Portal through on-line service and have not been served on the petitioner through physical mode, therefore, the same were unnoticed by the petitioner.

6.1 However, on coming to know of the impugned assessment order, the petitioner preferred Appeal, however, the first respondent/Appellate Authority dismissed the Appeal on the ground that the same has not been filed within the condonable limit, which necessitated the petitioner to approach this Court seeking for the aforesaid relief.

6.2 Therefore, in the light of the above facts and circumstances of the case, and further, considering the fact that the petitioner is also ready and willing to pay 15% of the disputed tax, in the event, the impugned assessment order is set aside, this Court is inclined to set aside both the impugned assessment order passed by the second respondent/Assessing Officer, as the same suffers from violation of principles of natural justice and the order of dismissal of the Appeal passed by the Appellate Authority/first respondent, (since, he has no power to condone the delay beyond the period of 30 days). Accordingly, the following order/direction is passed/issued:-

i) The impugned order dated 24.11.2023 passed by the second respondent and the order of rejection passed by the first respondent/Appellate Authority dated 05.11.2024 are set aside.

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

iii) The petitioner is granted liberty to deposit 15% 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 second 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.

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

05.08.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

1 THE DEPUTY COMMISSIONER (CT)
O/O.THE DEPUTY COMMISSIONER (ST)

GST APPEAL CHENNAI I 2ND FLLOR,
MAIN BUILDING ROOM NO.210,
NO.1 GREAMS ROAD CHENNAI-600 006.

2 The Assistant Commissioner (ST)
Thirukazhukundram Assessment Circle
No.42- Wahab Nagar Thirukazhukundram -603 109

Krishnan Ramasamy,J.,

sd

W.P.No.29062 of 2025

05.08.2025