IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.08.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 29455 of 2025
and
W.M.P.No. 33008 of 2025

K Mohan
S/O Krishnasamy, No.29/15B Railway Colony
2nd Street N.M.Road, Aminjikarai, Chennai 600 029
..Petitioner

Vs.

The Assistant Commissioner (ST)]
MMDA Colony Assessment Circle
Commercial Taxes Department,
Egmore Taluk office 2nd Floor
Mayor Ramanathan Salai Spurtank Road
Chetpet Chennai 600 031. ...Respondent

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 respondent in the impugned Order passed vide Ref.No 2D330225303356T dated 28.02.2025 and quash the same with a consequential direction to the respondent to lift the bank attachment and consider the matter afresh by granting sufficient opportunity to the petitioner.

For Petitioner : Mr.Tickeamber Chandrasekar
For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.Tickeamber Chandrasekar learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who 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 passed by the respondent dated 28.02.2025 and quash the same with a consequential direction to the respondent to lift the bank attachment and consider the matter afresh by granting sufficient opportunity to the petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been diagnosed with Stage IV Lung Cancer and being a cancer patient coupled with his old age, he is not regularly attending to the day-to-day affairs of his business; that during such situation, the petitioner has been issued a show cause notice and hence, the petitioner filed two interim replies through their Consultant seeking for an extension of time to file a detailed reply along with supporting documents, but, the said request was not considered by the respondent and the respondent proceeded to pass the assessment order and challenging the same, the present Writ Petition is filed.

3.1 Further, it is submitted that the petitioner has voluntarily come forward to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter for re-consideration, and the learned counsel also made an endorsement to such effect in the Writ Petition today and hence, prays for appropriate orders in that regard.

4. Ms.P.Selvi, learned Government Advocate (T) for the respondent would submit that there is no fault on the part of the respondent in passing the assessment order, as, the petitioner has been affording with sufficient opportunities to putforth their case, by way of sending show cause notice affording an opportunity of personal hearing apart from three reminders, and the petitioner, having failed to utilize those opportunities cannot put the blame on the respondent-Department stating that no opportunities of personal hearing was afforded to the petitioner. However, the learned Government Advocate fairly submitted that since the petitioner has come forward to deposit 25% of the disputed tax, suitable orders may be passed for re-consideration of the issue by the respondent.

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

6. In the present case, there is no dispute on the aspect that the petitioner has been afforded with opportunity of personal hearing, as, the respondent has proceeded to pass the assessment order after sending show cause notice and three reminder notices affording such opportunities. Therefore, this Court does not find any fault on the decision making process on the part of the respondent. However, the only contention of the learned counsel for the petitioner is that the petitioner is an age old person suffering from Stage IV Lung Cancer and on receipt of the show cause notice, the petitioner was not in a position to consult with the Chartered Accountant as regards filing of a detailed reply, however, filed two interim replies, i) first reply dated 24.12.2024 seeking 15 days' time and ii) 2nd reply dated 20.02.2025 seeking 30 days' time for filing response along with supporting documents, however, the respondent, instead of acceding to such request, straightaway proceeded to confirm the proceeding contained in the show cause notice and passed the assessment order. Thus, this Court finds force in the contentions putforth by the learned counsel for the petitioner and also finds that the reasons assigned by the petitioner for not filing detailed reply to be acceptable.

6.1 In fact, this Court is of the view that when the petitioner-assessee is suffering from Stage IV Lung Cancer, he cannot be expected to consult upon the issue with his Accountant immediately, because, the petitioner, who is affected by life-threat disease like cancer, certainly, would have been impacted with depression, fear, frustration and isolation. Therefore, what this Court feels is that, when a request is made by an assessee, like that of the petitioner, citing any life-threat disease or age-related ailments, the same could be considered by the respondent-Assessing Officer and sufficient time may be granted, since, after all, what the respondent/Assessing Officer wants to ensure is that the revenue is generated in a timely manner. In the case on hand, the petitioner also annexed certain medical records obtained from Apollo Hospital as regards the disease he is suffering from. Though the respondent may have a say, only with the assistance of Chartered Accountant, petitioner-assessee is going to file reply, even in such case also, it will take some time to explain the details as regards the GST compliances to such Consultant.

6.2 Therefore, as stated supra, though this Court does not find any fault on the decision making process on the part of the respondent in passing the impugned order, however, it's anguish is that, the respondent could have taken into consideration the genuine request made by the petitioner for filing reply.

6.3 Thus, for all the aforesaid reasons, this Court is inclined to set aside the impugned order. However, considering the fact that the petitioner, themselves have voluntarily came forward to deposit 25% of the disputed tax in the event of the impugned order is being set aside and the matter is remanded to the respondent for fresh consideration, to which course, the learned Government Advocate for the respondent is also agreable, this Court is inclined to set aside the impugned order on certain terms.

6.4 Accordingly, this Court pass/issue the following orders/directions:-

i) The impugned order dated 28.02.2025 is set aside.

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

iii) The endorsement made by the learned counsel for the petitioner as regards the petitioner's willingness to pay 25% of the disputed tax is recorded. The petitioner is granted two weeks' time to make such payment, which shall take effect from the date of receipt of a copy of this order.

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

and

v) Thereupon, the respondent is directed to issue a notice affording an opportunity of personal hearing to the petitioner and after hearing the petitioner in full, 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 Petition is closed

21.08.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)]
MMDA Colony Assessment Circle
Commercial Taxes Department,
Egmore Taluk office 2nd Floor
Mayor Ramanathan Salai Spurtank Road
Chetpet Chennai 600 031.

Krishnan Ramasamy,J.,

sd

W.P.No. 29455 of 2025

21.08.2025