IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

Coram

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.29977 of 2025
and
W.M.P.Nos.33603 & 33604 of 2025

Tvl.Octoze Technologies Private Limited,
Represented by its Director Mouli Kumar C,
No.56/3A, Fayola Towers,
200 Feet Radial Road,
Pallikaranai, Chennai - 600 129. ...Petitioner

Vs.

1.The Assistant Commissioner (ST) (FAC),
Medavakkam Assessment Circle,
No.46, Greenways Road,
R.A. Puram, 2nd Floor,
Room No.205,
Chennai - 600 028.

2.ICICI Bank,
Rep. by Branch Manager,
No.1, Cenotaph Road,
Sri Ram Nagar,
Alwarpet, Chennai - 600 018.

3.ICICI Bank,
Rep. by Branch Manager,
No.34-E, Old Mahapalipuram Road (OMR),
Siruseri, Chennai - 600 130.

4.City Union Bank,
Rep. by Branch Manager,
No.17, Thiyagigal Road,
Laxmipuram East, Devakottai - 630 302.

5.State Bank of India,
Rep. by Branch Manager,
No.55, Lattice Bridge Road,
Tiruvanmiyuir,
Chennai - 600 041. ...Respondents

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 of the impugned order in GSTIN:33AABCO9177A1ZM/2020-2021 dated 17.02.2025 along with Form DRC-07 vide Ref. No.ZD330225162260X dated 17.02.2025 in the files of the first respondent and quash the same.

For Petitioner : Mr.S.Muthuvenkataraman

For Respondents : Mrs.K.Vasanthamala
Government Advocate (Tax)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Tax), 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. This Writ Petition has been filed challenging the impugned order dated 17.02.2025 passed by the 1st respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the 1st respondent issued a notice in Form DRC-01 dated 25.11.2024, for which the petitioner filed his reply on 24.12.2024 along with other supporting documents. He would further submit that as per Section 75(4) of the GST Act, 2017, the 1st respondent was supposed to provide personal hearing to the petitioner. However, without providing any opportunity to the petitioner, the respondent passed the impugned order dated 17.02.2025 and subsequently issued recovery notice on 18.07.2025, which is violation of principles of natural justice.

4. On the other hand, the learned Government Advocate (Tax) for the respondents would submit that in the present case the petitioner filed reply stating that after reviewing the notice, difference for tax payable is export service and they have already applied for LUT without tax payment for the above services and they have not filed any supporting documents. Under these circumstances, the impugned order was passed. He further submitted that the petitioner has lost opportunities before the assessing officer, in the event of any further submissions, they can very well make submissions before the appellate authority.

5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, I find force in the submissions made by the learned Government Advocate (Tax) for the respondents. It is not that without filing a reply, the impugned order was passed. The petitioner filed reply and the 1st respondent also after taking into consideration of the said reply passed the impugned order. If at all not happy with the impugned order passed by the 1st respondent, it is for the petitioner to file an appeal before the appellate authority and not before this Court because the time limit for filing the appeal got expired.

6. In such view of the matter, this Court is not inclined to entertain the present petition. Accordingly, this Writ Petition stands dismissed. While dismissing the present petition, this Court granted liberty to the petitioner to file an appeal before the appellate authority subject to the payment of 10% of additional deposit over and above 10% of statutory deposit already deposited by the petitioner, within a period of two weeks from the date of receipt of a copy of this order, failing which the 1st respondent is directed to proceed with the recovery. The appellate authority is directed to verify the payment of 10% of additional deposit and thereafter entertain the appeal filed by the petitioner if it is otherwise in order. Once the appeal is filed by the petitioner, the 1st respondent is directed not to proceed with the recovery. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.08.2025

Speaking order / 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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