IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.32072 of 2025
and
W.M.P.No.35949 of 2025

Tvl. Shree Yarn Traders
Represented by its Proprietor
Nidhi Khator No.24 Rudrappan Street
Shevapet, Salem ..Petitioner

Vs

1 Deputy Commissioner (CT)
Appellate Authority, GST, Salem

2 Assistant Commissioner (ST)
Shevapet Assessment Circle, Salem. ...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 on the file of GST department in respect to the order passed by the 2nd respondent dated 10/02/2025 via. GSTN :33AJOPK0894P1Z1/2020-21 under DRCO7 and quash the same and to direct the respondents to unfreeze the Petitioner's bank account held with Kotak Mahandra bank Salem account/ attaching of A/c 1350250299, 1312657524, 1412388564, 2012116465 AND/OR any other account linked with the Petitioner in pursuant to the notice No.33AJOPKO894P1Z1/ 2025/A3/dated 12.06.2025 sent to the petitioner's bank held with kotak Mahendra bank Salem and to direct the 2nd Respondent to re assess the returns filed by the petitioner for the AY2020-21

For Petitioner	:	Mr.Karunanantham, M.
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate (T)

Order

Heard Mr.Karunanantham, M. learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran. 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 second respondent dated 10/02/2025 and to quash the same and to direct the respondents to unfreeze the Petitioner's bank account held with Kotak Mahendra bank Salem or any other account linked with the Petitioner in pursuant to the notice dated 12.06.2025 sent to the petitioner's bank held with kotak Mahendra bank Salem and to direct the 2nd Respondent to re assess the returns filed by the petitioner for the AY2020-21.

3. Mr.Karunanantham, M. learned counsel appearing for the petitioner would submit that a show cause notice was issued to the petitioner dated 25.11.2024, containing four defects, to which, the petitioner filed a reply dated 03.02.2025; thereafter, the second respondent, without even affording an opportunity of personal hearing to the petitioner, passed the assessment order, wherein, the proposal in respect of Defect No.3 was dropped, however, so far as Defect Nos.1,2, and 4 were concerned, the proposals were confirmed and challenging the said assessment order, the present Writ Petition is filed.

3.1 The bone of contention of the learned counsel for the petitioner is that Section 75 (4) of the CGST Act, 2017 mandates granting of an opportunity of personal hearing to the petitioner before passing any adverse orders against an assessee, in the present case, though the second respondent based on the reply filed by the petitioner, dropped the proposal contained in the show cause notice in respect of Defect No.3, insofar as other defects, viz., Defect Nos.1, 2, and 4 were concerned, when the second respondent intends to confirm the proposals, the same ought to have been done after affording an opportunity of personal hearing to the petitioner, instead, the second respondent straightaway proceeded to confirm the proposals, and therefore, it is contended that the impugned order passed by the second respondent suffers not only from violation of principles of natural justice but also against the provisions of Section 75 (4) of the Act, however, he fairly submitted that the petitioner has voluntarily come forward to deposit 10% 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 an endorsement to the said effect is also made in the Writ Petition. Thus, the learned counsel prays for appropriate orders.

4. Mr.V.Prashanth Kiran, learned Government Advocate (T) for respondents would submit that only after taking into consideration of the reply filed by the petitioner, the assessment order was passed, whereby, proposal in respect of Defect No.3 was dropped and so far as other defects were concerned, since the reply filed by the petitioner was not satisfactory, the proposals were confirmed, therefore, the question of non-provision of personal hearing opportunity does not arise, however, when this Court posed a question as to whether any opportunity of personal hearing was afforded to the petitioner before confirming the proposals, he admitted that subsequent to the reply filed by the petitioner, no opportunity of personal hearing was afforded to the petitioner, and therefore, he fairly submitted that since the petitioner has come forward to deposit 10% of the disputed tax, suitable orders may be passed for re-consideration of the issue by the Authority concerned.

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, it is an admitted fact before confirming the proposals in respect of Defect Nos.1, 2 and 4, no personal hearing was affording to the petitioner. Though the second respondent based on the reply filed by the petitioner dropped the proposals contained in the show cause notice in respect of Defect No.3, when the second respondent intends to confirm the proposals in respect of other defects, certainly, the petitioner ought to have been heard, inasmuch as, in terms of Section 75 (4) of the

CGST Act, it is mandatory on the part of the second respondent to provide an opportunity of hearing to the petitioner-assessee before passing any adverse order.

6.1 Therefore, it is crystal clear that the assessment order not only suffers from violation of principles of natural justice and also against the provisions of Section 75 (4) of the CGST Act. Hence, this Court is inclined to set aside the impugned order. However, considering the fact that the petitioner, themselves have voluntarily came forward to deposit 10% of the disputed tax in the event of the impugned order is being set aside and the matter is remanded to the second respondent for fresh consideration, to which course, the learned Government Advocate for the respondents is also agreable, this Court is inclined to set aside the impugned order on certain terms.

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

i) The impugned order passed by the second respondent dated 10.02.2025 is set aside.

ii) Consequently, the matter is remanded to the second respondent for fresh consideration, only in respect of defect Nos.1, 2 and 4. Insofar as defect No.3 is concerned, the assessment order passed by the second respondent stands confirmed.

iii) The endorsement made by the learned counsel for the petitioner as regards the petitioner's willingness to pay 10% 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) In the event, the petitioner intends to file any additional reply/documents, the same shall be filed within a period of two weeks therefrom.

v) Thereafter, the second respondent is directed to issue a notice affording an opportunity of personal hearing to the petitioner and after considering both the reply that has already been filed by the petitioner and the additional reply, if any, and hearing the petitioner in full, shall decide the matter in accordance with law, concerning the defect Nos.1, 2 and 4.

and

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 10% 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.

26.08.2025

sd

Index : yes/no
Neutral Citation : yes/no
Note : Issue order copy on 26.08.2025

To

1 Deputy Commissioner (CT)
Appellate Authority, GST, Salem

2 Assistant Commissioner (ST)
Shevapet Assessment Circle, Salem

Krishnan Ramasamy,J.,

sd

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