IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2025
Coram

The Honourabl **Mr.Justice Krishnan Ramasamy**

W.P.No.32304 of 2025
and
W.M.P.Nos.36245, 36246, 36248 & 36251 of 2025

Mr.Sundar V P
Lessee of M/s.Varadaraja Theatres Private Limited
190/2B First Main Road, Chitlapakkam
Chennai, Tamil Nadu 600064. ..Petitioner

Vs.

1 Assistant Commissioner (ST)
Chromepet Assessment Circle
Chromepet Tambaram : Chengalpattu
Integrated Ct and Regn Department Building
South Tower Room No. 336
Nandanam Guindy, Chennai – 600 035.

2 Deputy Commissioner(ST)(FAC)
Tambaram Zone.

3 The Branch Manager
State Bank of India Madavaram Branch 12
Madavaram High Road. Moolakadai
Chennai-600 060. ..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 records from the file of the respondent and to quash the Impugned Order under section 73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 both dated 21-08-2024 and having Reference Number ZD3308241884609 and its annexure dated 16-08-2024 in GSTIN.33CCUPS9860C1Z0/2019-20 passed by the first respondent for the FY 2019-20.

For Petitioner : Mr.K.Subash Anbarasu
for Mr.N.V.Balaji

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

Order

Heard Mr.K.Subash Anbarasu, learned for Mr.N.V.Balaji 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. In view of the order this Court proposes to pass in this writ petition, notice to the third respondent is dispensed with and 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 under section 73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 both dated 21-08-2024 and its annexure dated 16-08-2024 and to quash the same.

3. The learned counsel for the petitioner submitted that the grievance expressed by the petitioner is that neither the show cause notice nor the impugned assessment order was served on the petitioner, and the same were sent to the petitioner's old business place address, which the petitioner was not aware, as, from December, 2019, the petitioner is not carrying on any business, and hence, the petitioner could not file reply to the show cause notice and participate in the proceedings, and only when the petitioner's bank account came to be attached, the petitioner became aware of the impugned order.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. However, it is stated that the petitioner is also ready and willing to deposit 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 an endorsement to such effect is also made in the Writ Petition today, and thus, prays for appropriate orders.

4. The learned Government Advocate for the respondents 1 and 2 fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that show cause notice and other allied communications, which culminated in the impugned order has been served on the petitioner's business address, which, the petitioner is not aware, as the petitioner is not carrying out any business from December 2019 onwards, however, the respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order, which infact was unknown to the petitioner and only when the petitioner's bank account was attached in furtherance of the impugned order, the petitioner came to the know of the impugned order. Therefore, this Court is of the view that the first respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. Thus, 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, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate for respondents 1 and 2 is also agreable, this Court pass the following orders/directions:-

i) The impugned order passed by the first respondent including the summary of the order both dated 21.08.2024 and its annexure dated 16.08.2024 are set aside.

ii) Consequently, the matter is remanded to the first 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 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.

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, respondent-Department 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

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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