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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2025

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.36898 of 2024 &**
**W.M.P.Nos.39851 and 39852 of 2024**

Mrs.Kamal Kumar P ... Petitioner

..Vs..

The Commercial Tax Officer
SOWCARPET:North-I:CHENNAI NORTH:
Tamil Nadu. ... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the respondent bearing the impugned order bearing reference number ZD330424206674L dated 26.04.2024 passed by the respondent directing the petitioner to pay Rs.772,820/- as tax, Rs.6,95,156/- as interest and Rs.77,282/- as penalty totalling to Rs.15,45,258/- and quash the same and direct the Respondent to refund Rs.2,35,420/- and de-freeze the Petitioner's HDFC account no.50200090158990.



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For Petitioner : Ms.S.Gayathri

For Respondents : Ms.Amirtha Dinakaran
Government Advocate (Taxes)

**ORDER**

This writ petition has been filed by the petitioner challenging the order dated 26.04.2024 passed by the respondent directing the petitioner to pay Rs.772,820/- as tax, Rs.6,95,156/- as interest and Rs.77,282/- as penalty totalling to Rs.15,45,258/- and quash the same and direct the Respondent to refund Rs.2,35,420/- and de-freeze the Petitioner's HDFC account no.50200090158990.

2. The learned counsel for the petitioner submits that the respondent issued a show cause notice to the petitioner on 26.12.2023. In the said show cause notice, two proposals were made for which a detailed reply has been filed on 01.02.2024. That apart, partial payments have been made by the petitioner on 01.02.2024 and 29.02.2024. But, the respondent without considering the same has passed the impugned order on 26.04.2024. In the said impugned order, the respondent has



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stated that the petitioner has not filed the reply for the 1st proposal and the reply filed with respect to the 2nd proposal was not considered. Therefore, she would submit that the impugned order is passed with non application of mind. Subsequently, the bank account of the petitioner was attached and 30% of the tax amount was recovered. Hence, the prays to set aside the impugned order.

3. When the matter was taken up, the learned Government Advocate sought for pass over and on her request the matter was taken up at 2.15. P.M. When the matter was called at 2.15 P.M., the learned Government Advocate (Taxes), on instructions would fairly submit that though the reply was filed by the petitioner with respect to the 1st proposal made in the show cause notice, it was not considered. Hence, she prays for appropriate orders.

4. Heard both sides. Perused the records.



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5. In the case on hand, though the petitioner has filed the reply for the 1st proposal of the show cause notice, the respondent in the impugned order has stated that the petitioner has not filed the reply to the said proposal, which has also been admitted by the learned Government Advocate (Taxes).

6. Having regard to the admitted fact that the impugned order came to be passed without considering the reply filed by the petitioner with respect to 1st proposal, and as 30% of the disputed tax liability has already been recovered, this court passes the following order:-

(i) The impugned order dated 26.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The respondent shall consider the reply/objection filed by the petitioner and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

(iii) Considering the fact that the impugned order itself has been set aside, this Court is of the



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opinion that the attachment made on the bank account of the petitioner, if any cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned bank to defreeze the the bank account of the petitioner immediately upon the production of proof with regard to the aforesaid payment made by the petitioner along with a copy of this order.

7. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**24.02.2025**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
arr

To

The Commercial Tax Officer
SOWCARPET:North-I:CHENNAI NORTH:
Tamil Nadu.



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**KRISHNAN RAMASAMY.J.,**

arr

**W.P.No.36898 of 2024**

**24.02.2025**



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