



WEB COPY



W.P.No.23503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23503 of 2024

and

W.M.P.Nos.25702, 25703 & 25706 of 2024

M/s.Road linkers Express Service,
Rep by its Partner,
No.118/18, Vepery High Road,
Purasawakkam, Chennai 600 003.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Vepery Assessment Circle,
PAPJM Annex Building,
1st Floor, Greams Road,
Chennai 600006.

2.The Deputy State Tax Officer 1,
Vepery Assessment Circle,
Station No.10, Greams Road,
Palaniappa Maligai, Chennai 600 006.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent and to direct the authority to pass fresh

1/6



W.P.No.23503 of 2024

orders as per the provisions of CGST and SGST Acts after giving an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromani

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 27.12.2023 passed by the respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, for the assessment year 2017-18, the demand notice was issued by the respondent on 28.06.2023 and the ex-parte impugned order came to be passed by the respondent on 27.12.2023, which is beyond the period of limitation. Further, he would submit that the said impugned



W.P.No.23503 of 2024

order was passed without providing any opportunity of personal hearing to the petitioner. He would also request this Court to lift the bank attachment, which was made based on the impugned order passed by the respondent. Hence, this petition has been filed.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that though the respondent had issued demand notice, the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent and also perused the materials available on record.

6. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned

3/6



W.P.No.23503 of 2024

WEB COPY

order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 27.12.2023 passed by the respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount to the respondent within a period of four weeks from today (20.08.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.



WEB COPY



W.P.No.23503 of 2024

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned Bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

20.08.2024

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



WEB COPY



W.P.No.23503 of 2024

KRISHNAN RAMASAMY.J.,

nsa

To

1.The Assistant Commissioner (ST),
Vevery Assessment Circle,
PAPJM Annex Building,
1st Floor, Greams Road,
Chennai 600006.

2.The Deputy State Tax Officer 1,
Vevery Assessment Circle,
Station No.10, Greams Road,
Palaniappa Maligai, Chennai 600 006.

W.P.No.23503 of 2024
and W.M.P.Nos.25702, 25703 & 25706 of 2024

20.08.2024

6/6