IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.35050, 35052, 35056, 35060 & 35065 of 2023
and
W.M.P.Nos.35010, 35016, 35022, 35029 & 35031 of 2023

Tvl.T.T.Textiles,
Rep by its Proprietor,
Mr.J.James Franklin Victoria,
Door No.10/96A, Sedan Thottam,
G.N.Mills Post,
Coimbatore 641029

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Thudiyalur Assessment Circle,
1st Floor, Annexure Building,
CTO Complex, Dr.Balasundaram Road,
Coimbatore 641 018.

2.The State Tax Officer,
Thudiyalur Circle, Coimbatore.

3.Commercial Tax Officer,
Thudiyalur Coimbatore,
Coimbatore, Tamil Nadu.

... Respondents

Prayer in W.P.No.35050 of 2023:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the file of the 2nd respondent vide order in GSTN: 33AEOPJ7911D2ZM/2019-20 dated 14.06.2023, seeking quash of the same.

Prayer in W.P.No.35052 of 2023:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the file of the 1st respondent vide final notice dated 14.09.2023 seeking quash of the same.

Prayer in W.P.Nos.35056, 35060 & 35065 of 2023:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the file of the 1st respondent vide order in Ref.No.33AEOPJ7911D2ZM/2023 dated 13.10.2023 and 23.11.2023 issued to the 4th respondent ordering freeze of the petitioner's Bank account vide IFSC Code: IDIB000E002, IDIB000K346 & TMBL0000232 and A/C/Nos.6218538777, 6504726811 & 232700150950005 respectively by way of a Notice of Provisional Attachment of property under Section 79(1)(c) of the TNGST Act, 2017 and quash the same as arbitrary and in violation of principles of natural justice and consequently directing the 1st respondent to release the attachment made to the bank account of the petitioner.

For Petitioner
in all petitions : Ms.J.Jayalakshmi P

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

COMMON ORDER

The writ petition in W.P.No.35050 of 2023 has been filed challenging the impugned order dated 14.06.2023.

2. The writ petition in W.P.No.35052 of 2023 has been filed challenging the impugned final notice dated 14.09.2023.

3. The writ petitions in W.P.Nos.35056, 35060 and 35065 of 2023 have been filed to direct the 1st respondent to release the attachment made to the bank accounts of the petitioner.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

5. The case of the petitioner is that prior to the passing of the assessment order, the respondents had neither provided any opportunities for filing reply nor provided any opportunities of personal hearing to the petitioner. The petitioner came to know about the said assessment order dated 14.06.2023 only when the final notice was physically served to him on 14.09.2023.

6. Under these circumstances, the last date for filing the appeal was expired since the petitioner is supposed to have filed the statutory appeal on or before 14.09.2023. Thereafter, a further period of 30 days is also available if sufficient reason was provided by the petitioner for the delay in filing the appeal, in which case, the petitioner is permitted to file the returns on or before 14.10.2023. However, the said period was also

expired. Hence, the petitioner filed these writ petitions challenging the impugned order and the final notice.

7. The learned counsel for the respondent would submit that the petitioner is still entitled to file the statutory appeal by approaching the appropriate Appellate Authority, in which case, this Court can grant liberty to the petitioner with regard to the same.

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

9. In the present case, the respondent had neither served any notice nor provided any opportunity of personal hearing to the petitioner. Under these circumstances, the impugned assessment order was passed by the respondent on 14.06.2023 and the petitioner came to know about the said impugned assessment order when the final notice was served to him on 14.09.2023. By this time, the limitation of filing an appeal has been expired. However, it was submitted by the learned counsel for the

respondent that the petitioner is still entitled to file the statutory appeal before the concerned Appellate Authority.

10. Considering all these aspects, this Court is inclined to grant liberty to the petitioner to file the appeal before the Appellate Authority within a period of 30 days from the date of receipt of copy of this order. In such case, the Appellate Authority is directed to consider the said appeal without insisting the issue of limitation.

11. In the meantime, there shall be an order of interim stay of the recovery proceedings until the filing of appeal. As far as the attachment order is concerned, until the filing of appeal, the petitioner is permitted to operate their bank accounts upon rendering the details, with regard to the deposit and withdrawal made in the respective bank account and also with regard to the utilisation of the money, which was withdrawn from those accounts, before the Authority concerned.

12. It is also made clear that if the petitioner failed to file the appeal within a period of 30 days, the aforesaid interim reliefs granted by this Court will automatically stand vacated.

13. With the above directions, these writ petitions are disposed of. No cost. Consequently, the connected miscellaneous petitions are also closed.

18.12.2023

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

To

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