IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.4886 of 2024
and
W.M.P.Nos.5346, 5347 & 5349 of 2024

Tvl. Sri Balaji Enterprises,
Rep.by its Proprietrix,
Ms. Muralitharan Varalakshmi,
72 C, First Street, Shanthi Nagar,
Avadi, Chennai – 600 062. ... Petitioner

Versus

The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Room No.115 - 1st Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road,
Park Town, Chennai – 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned order u/s.74 dated 14/03/2023 having reference No.ZD330323072189G passed by the respondent, and quash the same.

For Petitioner	:	Mr. Anandh S
For Respondent	:	Mr. C. Harsha Raj, Additional Government Pleader.

ORDER

The assessment order dated 14.03.2023 is challenged.

2. The petitioner states that he is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act), and was regularly filing returns. He also states that Input Tax Credit (ITC) was available to him under the TNVAT Act.

3. After the introduction of the GST laws, it is stated that he migrated to the GST regime. He has filed TRAN-I claiming transitional Input Tax Credit (ITC) and a sum of Rs.3,89,933/- was credited to the electronic credit ledger. In those circumstances, the petitioner states that he was shocked to come to know that his banker, M/s.IDBI Bank, Avadi Branch, had received a letter asking the Bank to remit the amounts due and payable towards tax liability. Pursuant thereto, it is stated that the sum of Rs.4,31,115/- was remitted by M/s.IDBI Bank, Avadi Branch and the said amount was appropriated by the respondent. The present writ petition was filed in the said facts and circumstances by asserting that the

impugned order was issued in violation of the principles of natural justice.

4. Learned counsel for the petitioner submits that the petitioner's bank account was attached and the sum of Rs.4,31,115/- was appropriated therefrom without providing a reasonable opportunity to the petitioner. He also points out that the intimation, show-cause notice and assessment order were uploaded in the "View Additional Notices and Orders" tab on the GST portal.

5. Mr. C.Harsha Raj, learned Additional Government Pleader, appears on behalf of the respondent. He submits that the assessment order was preceded by an intimation and show-cause notice and that the respondent cannot be faulted if the petitioner fails to avail of the opportunity to contest the tax claim. Upon obtaining instructions, he admits that the sum of Rs.4,31,115/- was appropriated towards the tax demand.

6. The documents on record, including the impugned assessment order, clearly indicate that the petitioner was not heard before such an

order was issued. The agreed position is that a sum of Rs.4,31,115/- was appropriated towards the tax demand. In these circumstances, revenue interest is secured at this juncture. With a view to providing an opportunity to the petitioner to contest the tax demand, the impugned assessment order calls for interference.

7. Therefore, the impugned assessment order dated 14.03.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter, issue a fresh assessment order within a period of two months therefrom.

8. For the avoidance of doubt, it is made clear that the sum of Rs.4,31,115/-, which was appropriated towards the tax demand may be retained subject to the outcome of the remanded proceedings.

9. As a consequence of the quashing of the impugned assessment order, the attachment order issued in respect of the petitioner's bank account in M/s.IDBI Bank, Avadi Branch, shall stand raised.

10. The writ petition is allowed on the above terms. There will be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

01.03.2024

Index : Yes
Speaking Order : Yes
Neutral Case Citation: Yes

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To

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SENTHILKUMAR RAMAMOORTHY,J

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