IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.9874 & 10038 of 2024 and
W.M.P.Nos.10979, 10890, 10891, 11043, 11044 & 11046 of 2024

In both WPs.

S.S. Leathers,
Represented by its Partner,
Mr.Shaik Sahail Ahamed,
No.58/1, Wuthucattan street,
Periamet, Chennai-600 003. ...Petitioner

Vs.

1. The State Tax Officer,
(Formerly Known as Commercial Tax Officer),
Vepery Assessment Circle,
Palaniappa Building,
No.10, Greams Road,
Chennai-600 006.

2. The Branch Manager,
Punjab National Bank,
15 GP Road,
Anna salai, Chennai. ... Respondents

Prayer in W.P.No.9874 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in Reference No.ZD331023030240F-2017-2018 dated 06.10.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st respondent to defreeze the bank account C.A.No.0306008700008361 of the petitioner-registered taxable person.

Prayer in W.P.No.10038 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in Reference No.ZD331023030271A-2017-2018 dated 06.10.2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 1st respondent to defreeze the bank account C.A.No.0306008700008361 of the petitioner-registered taxable person.

In both WPs.

For Petitioner : Ms.V.Vijayalakshmi

For R1 : Mr.V.Prashanth Kiran,
Government Advocate

COMMON ORDER

These two writ petitions relate to assessment orders dated 06.10.2023 with regard to excess refund. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because he is not conversant with procedures under applicable GST enactments and had entrusted GST compliances to a consultant.

2. Learned counsel for the petitioner submits that these matters relate to alleged excess refund made to the petitioner in respect of two months of the assessment period 2017-2018. If provided an opportunity, learned counsel for the petitioner submits that the petitioner would be able to establish that excess refund was not made. On instructions, she submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the 1st respondent. By referring to the orders impugned herein, he submits that the petitioner was provided sufficient opportunities and that the petitioner failed to respond either to the intimation or the show cause notice that preceded the orders impugned herein.

4. On perusal of orders impugned herein, it is clear that the petitioner did not participate in proceedings. Such non participation was a consequence of not monitoring the GST portal and responding to notices. In these circumstances, it is just and appropriate to provide an opportunity to the petitioner, albeit by putting the petitioner on terms.

5. Therefore, solely with a view to provide an opportunity to the petitioner, the orders impugned herein are set aside and these matters are remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each relevant month within two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the respective show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand in respect of each relevant month was received, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue fresh orders within two months from the date of receipt of the petitioner's reply. Since the orders impugned herein have been set aside, the bank attachments pursuant thereto are raised.

6. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

The State Tax Officer,
(Formerly Known as Commercial Tax Officer),
Vepery Assessment Circle,
Palaniappa Building,
No.10, Greams Road,
Chennai-600 006.

W.P.Nos.9874 & 10038 of 2024 and
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