IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.9902 & 9933 of 2024 and
W.M.P.Nos.10910, 10911, 10951 & 10952 of 2024

In both WPs.

Tvl. Mayur Granites,
Represented by its Proprietor,
Mr.Abhishek Tak,
S.No.420/A, 420/1B, NA,
Jitanapalli Village,
Jagadvipalayam, Krishnagiri,
Tamil Nadu-635 203. ...Petitioner

Vs.

1. The Assistant Commissioner (ST),
Krishnagiri-II Circle,
Hosur Division, Dharmapuri,
Salem, Tamil Nadu.

2.Axis Bank,
Neelandri Road Branch,
Zeus Alliance, Karnataka-560 100. ... Respondents

Prayer in W.P.No.9902 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 relating to the impugned order dated 27.07.2023 in

Form GST DRC-07 bearing GSTN.No.33AAEXPT6179E1ZS/2018-2019 issued by the 1st respondent along with Summary of the order dated 31.07.2023 both having Reference No.ZD330723137263M and quash the same, and consequently direct the 1st respondent to lift the attachment made on the bank accounts maintained by the petitioner with the 2nd respondent dated 18.03.2024.

Prayer in W.P.No.9933 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 relating to the impugned order dated 27.07.2023 in Form GST DRC-07 bearing GSTN.No.33AAEXPT6179E1ZS/2019-2020 issued by the 1st respondent along with Summary of the order dated 31.07.2023 both having Reference No.ZD330723137188C and quash the same, and consequently direct the 1st respondent to lift the attachment made on the bank accounts maintained by the petitioner with the 2nd respondent dated 18.03.2024.

In both WPs.

For Petitioner : Mr.Abdul Rahman
for M/s.Abdul Rahman and Associates

For R1 : Mrs.K.Vasanthamala,
Government Advocate

COMMON ORDER

By these two writ petitions, assessment orders pertaining to two distinct assessment periods are challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the orders impugned herein because such orders were uploaded on the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode.

3. By pointing out that the tax demand pertains to discrepancy between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A returns, learned counsel submits that the petitioner would be in a position to explain the discrepancy satisfactorily if provided an opportunity. On instructions, learned counsel for the petitioner submits that as a condition for remand, the petitioner is willing to remit 10% of the disputed tax demand in respect of each assessment period.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the 1st respondent. With reference to the impugned order, she points out that such order was preceded by a show cause notice and that, therefore, the petitioner had sufficient opportunity to contest the tax demand.

5. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not file objections or participate in the personal hearing. The petitioner has asserted that he would be in a position to explain the discrepancy between the GSTR 3B and 2A returns if provided an opportunity. In these circumstances, it is just and appropriate that an opportunity be provided to the petitioner by putting the petitioner on terms.

6. For reasons set out above, the orders impugned herein are set aside and the matters are remanded to the 1st respondent for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to within a period of 15 days from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause

notices 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 assessment period was received, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of two months from the date of receipt of the petitioner's reply. Since the impugned assessment orders are being set aside, the bank attachments pursuant thereto are raised.

7. 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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To

The Assistant Commissioner (ST),
Krishnagiri-II Circle,
Hosur Division, Dharmapuri,
Salem, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J.

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