IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11971 of 2024
and
W.M.P.Nos.13057,13508 & 13059 of 2024

Srinivasa Traders,
Rep.by its Parner Mr. A. Srinivasan ... Petitioner

Versus

1.The State Tax Officer,
(Formerly Known as Commercial Tax Officer),
Avadi Assessment Circle,
No.32, 1st Floor, (Room No.124),
Elephant Gate Bridge Road,
Chennai 600 003.

2.The Assistant Commissioner (State Tax),
Avadi Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bride Road,
Chennai – 600 003.

3.The Branch Manager,
ICICI Bank Limited,
No.3 Main Road,
Kamaraj Nagar,
Avadi, Chennai – 71. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for records in reference number ZD3303231117311/ 2017-18 dt. 23.03.2023 on the file of the 1st respondent and quash the same as contrary to law, consequentially direct the 2nd respondent to defreeze the bank attachments in reference no. GSTIN 33ADIFS4652D1Z7/ A2/ 2024 dt. 19.01.2024 of the petitioner-registered taxable person.

For Petitioner : Mr. S. Ramanan

For Respondents : Mr. V. Prashanth Kiran, (for R1 & R2)
Government Advocate.

ORDER

An order dated 23.03.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. Pursuant to the show cause notice dated 15.12.2022, the petitioner submitted a reply dated 12.03.2023. By such reply, the petitioner enclosed purchase invoices and submitted that the petitioner had closed his business. The impugned order was issued thereafter.

3. Learned counsel for the petitioner submits that the

petitioner was carrying on the business of trading in products such as waist belts and thermal massagers. He also submits that there was only supplier called as "Healthy World". He submits that the petitioner has copies of tax invoices and evidence that the supplier had filed returns and remitted taxes. He seeks an opportunity to contest the tax demand on merits.

4. Mr. V. Prashanth Kiran, learned Government Advocate, appears on behalf of the first and second respondents. He submits that principles of natural justice were complied with by issuing intimation dated 08.11.2022, show cause notice dated 15.12.2022 and by also issuing reminders thereafter. By referring to the impugned order, he points out that the tax proposal was confirmed because the petitioner failed to provide e-way bills or tax invoices. He also points out that there were no activities at the place of business.

5. Learned counsel for the petitioner contends that the tax invoices are available and that all the purchases were from a single supplier. He has placed on record such tax invoices and *prima facie* evidence that the supplier filed returns and remitted taxes. In these facts and circumstances,

reconsideration is necessary albeit by putting the petitioner on terms because the petitioner failed to submit relevant documents in the course of assessment. On instructions, learned counsel submits that the petitioner agrees to remit 15% of the disputed tax demand as a condition for remand.

6. For reasons set out above, the impugned order dated 23.03.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 15% of the disputed tax demand within a period of 15 days from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply along with supporting documents. Upon receipt thereof and upon satisfied that 15% of the disputed tax demand was received, the first respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply. In view of the assessment order being set aside, the bank attachment is raised.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous

petitions are also closed.

01.07.2024
(1/2)

Index : No
Speaking Order : Yes
Neutral Case Citation:No

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SENTHILKUMAR RAMAMOORTHY,J.

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