IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.13385 of 2024
and
W.M.P.Nos.14533 of 2024

Tvl. Innovative Engineering Services
Rep., by its Proprietor Mr.Rajakumari,
Old No.32A, New No.69, Thiruvalluvar Street,
Krishnapuram, Saravanampatti,
Coimbatore 641 035. ...Petitioner

Vs.

1. The Commercial Tax Officer/Proper Officer,
   Commercial Taxes Department,
   Proceedings of the State Tax Officer (State Tax)
   Saravanampatti (West) Assessment Circle,
   Coimbatore.
2. The Proper Officer/Deputy Commissioner (GST),
   Commercial Taxes Department,
   Saravanampatti (West) Assessment Circle,
   Coimbatore. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for the records pertaining to the impugned order vide reference No.GSTIN:33BQSPR3054A1ZX/2019-20 dated 27.09.2023 demanding Rs.5,65,264/- towards tax, interest and penalty and quash the same.

For Petitioner : Mr.P.Murugesan

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 27.09.2023 passed by the first respondent.

2. Alleging that the petitioner had availed Input Tax Credit (ITC) by filing GSTR-3B for the assessment period 2019-2020, the first respondent passed an impugned order dated 27.09.2023, demanding the payment of tax, along with interest and penalty.

3. The learned counsel for the petitioner submitted that subsquent to the impugned order dated 27.09.2023 passed by the first respondent, demanding the payment of total tax liability of Rs.5,65,264/- towards tax along with interest and penalty, the petitioner's Bank account was attached and a sum of Rs.3,25,620/- out of Rs.5,65,264/- was transferred through Electronic Cash Ledger/Credit Ledger from the petitioner's Bank account against the outstanding GST demand. Further, he would submit that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Hence, he sought appropriate order from this Court for

affording an opportunity of personal hearing to the petitioner to present the case and participate in the proceedings.

4. Mr.V.Prashanth Kiran, learned Government Advocate (Tax) appearing for the respondents would submit that subject to the verification of the payment of Rs.3,25,620/- towards tax along with interest and penalty, this Court may remand the matter to the Authority concerned for passing appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents and perused the materials available on record.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned order was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the reminder notices and the impugned order through the GST Portal and the original of the said order was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording an opportunity of personal

hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

7. For the reasons stated above, this Court is inclined to set aside the impugned order dated 27.09.2023 passed by the first respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the first respondent in respect of the impugned assessment period 2019-2020 for fresh consideration within a period of four weeks from the date of receipt of a copy of this order. Since a sum of Rs.3,25,620/- out of total tax liability of Rs.5,65,264/- was transferred from the petitioner's Bank account, this Court is not inclined to impose any further condition.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the Bank account of the petitioner cannot survive any longer and hence, it is lifted. The first respondent is directed to instruct the Bank to de-freeze the Bank account of the petitioner immediately upon the production of a copy of this order, in case if the petitioner's Bank account is attached.

8. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

21.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,

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