IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

**W.P.Nos.18487, 18493, 18497, 18500,
18503, 14093, 14097 & 14101 of 2024
& W.M.P.Nos.20266, 20267, 20272,
20273, 20276, 20277, 20280, 20282,
20283, 20284, 15280, 15281, 15286,
15287, 15293 & 15294 of 2024**

W.P.No.18487 of 2024:

WIN WIN Industries Pvt. Ltd.,
Rep by its Managing Director,
Mr.Mani Venugopal,
Tiruttani High Road,
Kunnavalam, Opp. to DD Medical College,
Tiruvallur 631 210

... Petitioner

Vs.

1.The State Tax officer,
Tiruttani Assessment Circle,
Arakkonam.

2.The Branch Manager,
State Bank of India,
Jawaharlal Nehru Road,
Tiruvallur 602 002.

3.The Branch Manager,
Federal Bank,
Tamil Nadu Housing Board Complex,
No.C48, 2nd Ave, Opp. to Nalli Silks,
Anna Nagar, Chennai 600 040

4.Daesong India Automotive Private Limited,
496/2, Sriperumbudur Taluk,
Valarpuram Post, Mannur Village,
Kancheepuram 602105

5.Prospira India Automotive Products Pvt. Ltd.,
136, Vaipur B Block, Eraiyur Village,
Mathur Post, Sriperumbudur Taluk,
Kancheepuram 602 105.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records leading to the issuance of assessment order bearing Ref GSTIN 33AAACW8143P1ZW/2017-18 dated 19.12.2023 passed by the 1st respondent herein to the extent of total tax demand of Rs.1,14,55,155/- and quash the same.

For Petitioner in all petitions : Ms.S.P.Harini

For Respondent in all petitions : Ms.K.Vasanthamala, Government Advocate for R1

COMMON ORDER

These writ petitions have been filed challenging the four impugned orders dated 19.12.2023 and the impugned recovery notices dated 14.06.2024 and the impugned bank attachment notice dated 27.05.2024.

2. The learned counsel for the petitioner would submit that in these cases, initially, the petitioner had filed their reply and also participated in the personal hearing before the respondent. Thereafter, the four assessment orders dated 19.12.2023 came to be passed by the respondent pertaining to the Assessment Years 2017-18, 2018-19, 2019-20 and 2020-21. Aggrieved over the said assessment orders, the rectification applications were filed by the petitioner, however, the same were rejected by the respondent.

3. Further, he would submit that the main allegations put forth against the petitioner were with regard to bill trading and mismatch of

GSTR-3B and GSTR-2A. After perusal of reply filed by the petitioner, the respondent had dropped proceedings with regard to the aspect of bill trading.

4. As far as the mismatch of GSTR-3B and GSTR-2A is concerned, he would submit that there was an error crept while filing the Form GSTR-3B. In this regard, a certificate was also obtained and the same was now readily available with the petitioner. Hence, he requests this Court to provide an opportunity to the petitioner to establish their case before the respondent. He would also submit that the petitioner is willing to pay 10% of the disputed tax amount to the respondent.

5. In reply, after perusal of the certificate produced by the petitioner, the learned Government Advocate appearing for the respondent had also confirmed the submissions made by the petitioner and requests this Court to remand this matter back to the respondent for reconsideration on terms.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and also perused the materials available on record.

7. In the cases on hand, initially the respondent had issued show cause notices mainly on two allegations viz., bill trading and mismatch occurred in GSTR-3B and GSTR-2A. After perusal of reply filed by the petitioner, the proceedings were dropped by the respondent only on the aspect of bill trading. Thereafter, the four assessment orders dated 19.12.2023 came to be passed by the respondent pertaining to the Assessment Years 2017-18, 2018-19, 2019-20 and 2020-21.

8. According to the petitioner, there was an error crept while filing the Form GSTR-3B. In this regard, a certificate was also obtained by the petitioner and the same was perused and accepted by the learned Government Advocate appearing for the respondent. In such case, this Court is of the view that as contended by the learned Government

Advocate appearing for the respondent, it is just and necessary to provide an opportunity to the petitioner to establish their case before the respondent. In such view of the matter, this Court is inclined to set aside the impugned assessment orders. Accordingly, this Court passes the following order:-

(i) The four assessment orders dated 19.12.2023 came to be passed by the respondent pertaining to the Assessment Years 2017-18, 2018-19, 2019-20 and 2020-21 are set aside and the matters are remanded to the 1st respondent/The State Tax Officer for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent, in each assessment order, within a period of four weeks from today (19.10.2024) and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st respondent shall consider the same and issue a 14 days clear notice, by fixing the date of 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 orders itself have been set aside, this Court is of the opinion that the three impugned recovery notices dated 14.06.2024 and the impugned bank attachment notice dated 27.05.2024 issued by the respondent cannot survive any longer and hence, it is quashed. As a sequel, the 1st respondent is directed to instruct the respective banks to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the disputed tax amount by the petitioner as stated above.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

19.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The State Tax officer,
Tiruttani Assessment Circle,
Arakkonam.

KRISHNAN RAMASAMY.J.,

nsa

W.P.Nos.18487, 18493, 18497, 18500, 18503, 14093, 14097 & 14101 of 2024 & W.M.P.Nos.20266, 20267, 20272, 20273, 20276, 20277, 20280, 20282, 20283, 20284, 15280, 15281, 15286, 15287, 15293 & 15294 of 2024

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