IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19112 of 2024
and
W.M.P.Nos.20960, 20962 & 20963 of 2024

M/s.Sai Site Plan Engineers,
Rep by its Managing Partner,
41, Sembiyam Redhills Road,
Kathirvelu 600 066

... Petitioner

Vs.

1.The Commissioner,
Office of Principal and Special Commissioner of Commercial Taxes,
Office of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 600 005.

2.The Joint Commissioner (ST),
Office of Joint Commissioner of Commercial Taxes,
1st Floor, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

3.The Deputy State Tax Officer 1,
Surapattu Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

4.M/s.Andhara Bank,
No.3 & 4, Paper Mills Road,
Perambur, Kolathur, Chennai 600 099.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records culminating in order GSTIN: 33ADGFS2147D1ZF/2017-18 dated 12.12.2023 passed by the 3rd respondent and quash the same and direct the respondents to defreeze the petitioner's bank account No.158911100004678 in the 4th respondent bank.

For Petitioner : Mr.V.Haribabu

For Respondent : Ms.K.Vasanthamala,
Government Advocate for R1 to R3

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent dated 12.12.2023 and to de-freeze the petitioner's bank account.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents 1 to 3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the petitioner, who is doing business in the States of Tamil Nadu and Andhra Pradesh, had obtained registration for both the States separately and they are also filing the GSTR Returns and paying the applicable taxes without any delay or default, till date. Without considering the said aspect, the 3rd respondent has passed an impugned order stating that there was differences in the turnover and taxable supplies and liabilities, whereby the respondents-Department demanded a sum of Rs.43,79,300/- from the petitioner. The petitioner was unaware of the said impugned order since the filing of returns were taken care by their Accountant. Under these circumstances, the respondents-Department has instructed the 4th respondent-Bank to freeze the petitioner's bank account based on the aforesaid impugned order, due to which the day to day activities of the petitioner has come to stand still. Hence, this petition has been filed.

4. He would also contend that though the notices viz., DRC 01 and DRC 01A were uploaded by the respondents in their portal, the petitioner was unaware of the same since the account of the petitioner was managed by the Accountant as stated above. Hence, the petitioner was unable to file their reply and explain that no tax liabilities were pending. Thereafter, the impugned award was passed without providing any opportunity of personal hearing to the petitioner. Therefore, he requests this Court to set aside the impugned order passed by the respondent.

5. The learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioner has failed to provide reply to the notices uploaded by the respondents. She also admitted that no opportunity of personal hearing was given to the petitioner. Hence, she requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned

Government Advocate for the respondents 1 to 3 and also perused the materials available on record.

7. In the present case, the petitioner is doing business at Tamil Nadu and Andhra Pradesh vide separate GST Registration. Since the petitioner has filed the GST Returns and paid tax dues for both the States separately, the account pertaining to Andhra Pradesh was not brought to the knowledge of the respondents-Department. Hence, the notices viz., DRC 01 and DRC 01A were uploaded in the portal of the respondent-Department, however, the petitioner was unaware of the same, due to which, he was not in a position to file the reply to the said notices. Under these circumstances, the impugned order came to be passed by the 3rd respondent.

8. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an

opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 12.12.2023 passed by the 3rd respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 12.12.2023 is set aside and the matter is remanded to the 3rd respondent for fresh consideration.

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

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, within a period of 8 weeks from the date of receipt of the reply filed by the petitioner.

(iv) Considering the fact that the impugned order itself has been quashed, this Court is of the opinion that the freezing of the bank account of the petitioner cannot survive any longer. As a sequel, the 3rd respondent is directed to instruct the 4th respondent-Bank to de-freeze the bank account of the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

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

06.08.2024

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

To

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