IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.19470 of 2024

M/s.RIP Engineers, by its Managing Partner
K.T.Praveen Kumar, Thiruvallur 601001 Petitioner

Vs

1. The Deputy State Tax Officer (ST)
   Thiruvallur Assessment Circle, Chennai-123 Respondent

Prayer:- This Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the Respondent to assess the tax dues properly based on the actual returns filed for the assessment year 2018-19 and to stop the recovery and return the erroneously attached amount of Rs.94,988.61, on 14.06.2024 from the Petitioner's IOB Account No.131002000002003 of MMDA Branch, Chennai.

For Petitioner : Mr.Thanigai Arasu

For Respondents : Mr.G.Nanmaran, Special Government Pleader

ORDER

1. This Writ Petition is filed for issuance of Writ of Mandamus to direct the Respondent to assess the tax dues properly based on the actual returns filed for the assessment year 2018-19 and to stop the recovery and return the erroneously attached amount of Rs.94,988.61, on 14.06.2024 from the Petitioner's IOB Account No.131002000002003 of MMDA Branch, Chennai.

2. The case of the Petitioner is that the Petitioner Company, which is engaged in

the business of steel fabrication works, was issued with a show cause notice, dated 27.11.2023, to pay a sum of Rs.2,99,404/- with interest towards tax liability on or before 26.12.2023 in respect of the assessment year 2018-19. In spite of producing the actual returns, the Respondent again issued an order dated 28.12.2023 to pay the said sum. Thereafter, by notice dated 15.05.2024, the Petitioner was asked to pay the said sum, failing which bank attachment will be made and on thereafter, 14.06.2024, a sum of Rs.94,988.61/- available in the Petitioner's bank account was attached. Hence, contending that the bank account of the Petitioner was attached, without considering the actual returns filed by the Petitioner and without affording an opportunity, including a personal hearing to the Petitioner to establish their case, thereby violating the principles of natural justice, this Writ Petition has been filed.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

4. The learned counsel for the Petitioner would submit that the impugned bank attachment order came to be passed, in spite of producing actual returns in respect of the turn over and without affording an opportunity of personal hearing to the Petitioner, thereby violating the principles of natural justice. The learned counsel would further submit that the Petitioner would be able to establish their case if an opportunity is provided and that the Petitioner agrees

to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

5. The learned Government Advocate for the Respondents would submit that in spite of demand notice, the Petitioner failed to pay the demanded tax amount and hence, the bank account of the Petitioner was attached and that appropriate orders may be passed, by putting the Petitioner on terms.

6. On considering the materials available on record and the submissions of the learned counsel on either side, it is seen that though the Petitioner filed actual returns in respect of the impugned assessment year, without considering the same, the demand notice was issued and subsequently, the bank account of the Petitioner was attached. Before attaching the bank account, the Respondent ought to have called for a reply from the Petitioner and afforded an opportunity of personal hearing to the Petitioner to establish their case and thereafter, passed an assessment order, but the Respondent Authority failed to do so. According to the Petitioner, the actual return filed by them was not considered and they would be able to establish their case if an opportunity is provided. In such circumstances, this Court is of the view that the impugned bank attachment came to be made, without considering the actual returns filed by the Petitioner and affording opportunity of filing a reply to the show cause notice, including a personal hearing to the Petitioner to establish their case, thereby violating the principles of natural justice and hence, it is just and

necessary to provide an opportunity to the Petitioner to establish their case, on merits and in accordance with law, however, by putting the Petitioner on terms.

7. For the reasons stated above, the matter is remanded back to the Respondent for consideration afresh, by setting aside the impugned bank attachment order on condition that the Petitioner shall pay 10% of the disputed tax demand, within a period of four weeks from the date of receipt of a copy of this order. Within two weeks thereafter, the Petitioner is permitted to submit a fresh reply to the impugned show cause notice, by enclosing all relevant documents. Upon receipt of such reply and upon being satisfied that 10% of the disputed tax demand was received, the Respondent is directed to provide a reasonable opportunity to the Petitioner, including a personal hearing and consider the reply along with the relevant documents to be submitted by the Petitioner and thereafter, pass fresh orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of the Petitioner's reply.

8. With the above directions and terms, this Writ Petition is disposed of. No costs. .

06.08.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No

Srcm

To

The Deputy State Tax Officer (ST), Thiruvallur Assessment Circle,
Chennai-123

KRISHNAN RAMASAMY, J.

Srcm

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