IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19888 of 2024 &
W.M.P.Nos.21765, 21766 & 21767 of 2024

Tvl. Zen Machine Tools
New, 279, Linghi Chetty Street,
Chennai-600 001. ... Petitioner

Vs.

1. The State Tax Officer -1,
Harbour Assessment Circle
Office of The Deputy Commercial Tax Officer
Harbour Zone- I, Chennai North,
Tamil Nadu.

2. The Assistant Commissioner (ST)
Harbour Assessment Circle
Integrated Commercial Taxes Building
No.32, Elephant Gate Bridge Road
Chennai-600003.

3. The Branch Manager
Punjab & Sindh Bank
165, Thambu Chetty Street,
George Town
Chennai- 600001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the Respondent in GSTIN:33AATPH9123N1Z7/2021-22 and consequential order u/s 73 and Summary of the Order in Form GST DRC-07 bearing Reference No.ZD330623052039L dated 14.06.2023 along with the Bank Attachment Notice dated 15.02.2024 and quash the same as it has been passed in gross violation of the principles of natural justice and not in conformity with the principles laid by the decision of the Hon'ble Madras High Court in the case of ***JAK Communications Vs. The Deputy Commercial Tax Officer and Ors. (WP No.35453 of 2023 dated 19.12.2023***).

For Petitioner : Mr.Rupesh Sharma

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 30.09.2021 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "View Additional Notices and Orders" in the GST portal. However, the petitioner is not aware of the notices uploaded in the GST portal and thus, failed to file their reply within the time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order dated 14.06.2023, demanding the payment of tax along with penalty and interest for a sum of Rs. 1,86,476/- for the assessment years 2021 and 2022/ They came to know about the notices and impugned order only after Bank Attachment Notice issued to the Petitioner on 15.02.2024 and therefore the impugned orders passed are in violation of the principles of natural justice. He would further submit that the disputed tax has already been recovered.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that the disputed tax has already been recovered from the Petitioner's bank account, pursuant to the attachment.

6. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of

natural justice, and also considering the submissions made by the learned counsel on either side and as the disputed tax has already been recovered, this court passes the following order:-

(i) The impugned order dated 14.06.2023 is set aside and the matter is remanded to the 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 thereafter.

(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, 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. As a sequel, the 3rd respondent is directed to defreeze the the bank account of the petitioner immediately upon the production of a copy of this order.

7. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

08.08.2024

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

To

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