IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20497 of 2024
and
W.M.P.Nos.22445 to 22447 of 2024

Tvl.Zen Machine Tools,
Rep by its Mr.Heemanshu Bhupatlal Shah,
New.279, Linghi Chetty Street,
Chennai 600 001.

... Petitioner

Vs.

1.The State Tax Officer – I,
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 600 003.

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

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent in GSTIN: 33AATPH9123N1Z7/2019-20 and consequential order under Section 73 and summary of the order in Form GST DRC-07 bearing Ref.No.ZD330723085986T dated 20.07.2023 and quash the same as it has been passed in gross violation of 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 others (WP.No.35453 of 2023 dated 19.12.2023).***

For Petitioner : Mr.Rupesh Sharma

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings dated 20.07.2023 passed by the 1st respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondents 1 and 2. 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 all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner.

4. On the other hand, the learned Government Advocate would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he

requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

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

6. In the present case, 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 20.07.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 20.07.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount to the respondent within a period of two weeks from today (09.08.2024) and the

setting aside of the impugned order 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 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 quashed, this Court is of the opinion that the bank attachment notice dated 15.02.2024 cannot survive any longer and hence, the same is lifted. As a sequel, the 1st respondent is directed to release the attachment on the bank account of the petitioner held with the 3rd respondent-Bank, within a period of two weeks from the date of receipt of a copy of this order.

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

09.08.2024

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

To

1.The State Tax Officer – I,
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 600 003.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.20497 of 2024
and W.M.P.Nos.22445 to 22447 of 2024

09.08.2024