IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21505 of 2024 &
W.M.P.Nos.23474, 23476, 23478 & 23480 of 2024

Mr.P.Dawson Babu,
Proprietor of M/s.Sri Harini Transports,
338/7, 2nd Avenue,
Anna Nagar, Chennai -600 040. ... Petitioner

Vs.

1.The Deputy Commercial Tax Officer (ST),
Amaindakarai, Central-II,
F/50, 2nd Floor, First Avenue,
Anna Nagar (East),
Chennai - 102.

2.The Manager-Axis Bank,
Periyar Nagar Branch,
No.53, Ground & 1st Floor, Plot No.C,
130, Karthikeyan Road, periyar Ngar West,
Kolathur, Chennai - 600 082.

3.The Manager-Axis Bank,
Lakshmipuram Branch,
Plot Nos.1 & 2, Secretariat Colony 1st Main Road,
Lakshmipuram,
Kolathur, Chennai - 600 099. ... Respondents

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 of the impugned order with Ref.No.ZD331223095888Y, dated 14.12.2023 for the

F.Y.2017-2018 passed by the respondent, quash the same and issue a direction to the respondent to provide an opportunity to the petitioner to ascertain and submit the necessary documents, adjudicate the issue in accordance with law.

For Petitioner : Mr.R.Swarnvel

For Respondents : Mrs.K.Vasanthamala
Government Advocate for R1

ORDER

This writ petition has been filed by the petitioner challenging the order order dated 14.12.2023 passed by the respondent under Section 73 of the TNGST Act and directing the respondent authorities to provide an opportunity to the petitioner to submit the necessary documents for adjudicating the issue in accordance with law.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the first 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 in the GST portal. However, the petitioner being a small business concern 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 first respondent passed the impugned order, which is in violation of the principles of natural justice. Consequently, they initiated recovery proceedings by attaching the bank accounts of the petitioner with the respondents 2 and 3 / Banks. The learned counsel further submitted that the petitioner is ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim.

5. On the other hand, the learned Government Advocate (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. However, the learned counsel has no objection for granting relief to the petitioner subject to certain terms.

6. Having regard to the admitted fact that the impugned order 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, this court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of demand to the respondent within a period of four weeks from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) On such payment, the first respondent shall lift the attachment made on the bank accounts of the petitioner with immediate effect.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

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

12.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
r n s

To

The Deputy Commercial Tax Officer (ST),
Amaindakarai, Central-II,
F/50, 2nd Floor, First Avenue,
Anna Nagar (East),
Chennai - 102.

KRISHNAN RAMASAMY.J.,
rns

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