IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20368 of 2024 &
W.M.P.Nos.22287 & 22288 of 2024

Tvl.Cable Cast New Media Private Limited,
Rep., by its Director,
Mr.N.Ramesh,
No.51, 4th Floor, Raja Rajeshwari Towers,
Dr.Radhakrishnan Salai, Mylapore,
Chennai 600 004. ... Petitioner

Vs.

1. The State Tax Officer,
Mandaveli Assessment Circle,
South-I, Chennai South,
Room No.423, 4th Floor,
Integrated Commercial Taxes Building, Nandanam,
Chennai 600 035.

2. The Zonal Manager,
Kotak Mahindra Bank,
Ground Floor, "CAPITALE", Door No.554/555/1,
A-Wing, Anna Salai, Thiru.Vi.Ka.Kudiyiruppu,
Teynampet, Chennai 600 018.
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in order u/s.73 of TNGST Act 2017 in Re.No.ZD331223152370Z dated 20.12.2023 along with the annexure dated 20.12.2023 and a Summary of order dated 20.12.2023 on the file of the first respondent for the period from July, 2017 to March 2018 and quash the same and further direct the first respondent to lift the bank attachment in bank account of the petitioner held with the 2nd respondent.

For Petitioner : Mr.I.Dinesh
For R1 : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 20.12.2023 passed by the first respondent for the Assessment Year 2017-2018.

2. Mr.V.Prashanth Kiran, 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 show cause notice was uploaded under the head "View Additional Notices" tab in the GST portal and therefore is not aware of the same and thus, failed to file their reply to the show cause notice in time. While so, without providing any opportunity to the petitioner, the first respondent passed the impugned order dated 20.12.2023 and the same was also uploaded in "View Additional Notices and Orders" and therefore the Show Cause Notice as well as the impugned assessment order are passed in violation of the principles of natural justice. He further submitted that already a sum of Rs.17,94,958/- towards disputed tax has already been paid by the Petitioner and prays to allow this Petition.

5. On the other hand, the learned Government Advocate (Taxes) would submit that subject to the verification of the payment of Rs.17,94,956/-, this Court may remand the matter to the Authority concerned for passing appropriate orders.

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

7. 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 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 20.12.2023 passed by the first respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the first 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 a copy of this order.

(iii) On receipt of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing 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 of the petitioner's Bank account cannot survive any longer and hence, it is ordered to be lifted. The second respondent is directed to de-freeze the petitioner's Bank account immediately upon the production of a copy of this order, in case if the petitioner's Bank account is attached.

8. 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
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KRISHNAN RAMASAMY.J.,

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To

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W.M.P.Nos.21951 of 2024 & 21954 of 2024

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