IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21452 of 2024
and
W.M.P.Nos.23417 & 23420 of 2024

Gunal Steels,
Rep by the Proprietor, Duraipandi Porul Kodi,
72/2, Sundaram Pillai Nagar,
Tondiarpet, Chennai 601 203.

... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeal, Chennai I,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner,
Tondiarpet Assessment Circle,
Integrated Commercial Taxes Building,
Chennai (North) Division,
No.32, Elephant Gate Bridge Road,
Chennai 600 003
Tamil Nadu.

... Respondent

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 pertaining to the order in Ref.No.ZD330923095849N dated 15.09.2023 passed by the 2nd respondent against the order of demand in GSTIN/UIN 33BDZPP7316K1ZT and order in RC.No.623/2024 in memorandum dated 04.03.2024 passed by the 1st respondent and to quash the above orders and to direct the 1st respondent to accept the Statutory appeal filed under TNGST Act, 2017 dated 28.02.2024 against the demand order of the 2nd respondent in Order No.ZD330923095849N dated 15.09.2023 without reference to limitation and to further direct the respondents to de-freeze the bank accounts of the petitioner having Account No.622010200002349 Axis Bank, Old Washermenpet Branch.

For Petitioner : Ms.Y.Kavitha

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order 15.09.2023 passed by the 2nd respondent and to direct the 1st respondent to accept the Statutory appeal filed by the petitioner and to further direct the respondents to de-freeze the bank accounts of the petitioner.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. 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. Being unaware of the said notices, the petitioner failed to file their reply. Under these circumstances, the impugned order came to be passed by the respondent on 15.09.2023 without providing any opportunity of personal hearing to the petitioner. Since the petitioner was not aware of the said impugned notice, there was a delay of 44 days in filing the appeal, due to which the respondents had rejected the appeal filed by the petitioner vide order dated 04.03.2024. Hence, this petition has been filed.

4. On the other hand, the learned Standing counsel appearing for the respondent 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 pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 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 demand order dated 15.09.2023. Hence, this Court is of the view that the impugned demand 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. Being unaware of the impugned demand order, the petitioner has failed to file the appeal within the limitation period, due to which the said appeal, which was filed with

delay of 44 days, was rejected by the 1st respondent vide order dated 04.03.2024.

7. In view of the above, since no opportunity of personal hearing was provided to the petitioner, no useful purpose will be served in directing the 1st respondent to take the appeal on record. Therefore, instead of setting aside the rejection order dated 04.03.2024 passed by the 1st respondent, this Court is inclined to set aside the impugned demand order itself, which was passed by the 2nd respondent on 15.09.2023. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 15.09.2023 is set aside and the matter is remanded to the 2nd respondent for fresh consideration
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> (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 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 freezing of the bank accounts of the petitioner cannot survive any longer. As a sequel, the respondent is directed to instruct the concerned Bank to de-freeze the bank accounts of the petitioner, immediately upon 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.

12.08.2024

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

To

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