IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.21484 of 2024
AND
W.M.P.Nos.23452 & 23455 of 2024

M/s.SLA Enterprises,
represented by its proprietor B.Krishnakumar,
No.23, Old No.10,
7th Cross Street,
Shenoy Nagar (West),
Chennai – 600 030. .. Petitioner

Vs

1.The Deputy State Tax Officer – II,
Amaindakarai Assessment Circle,
F-50, First Avenue, Anna Nagar (East),
Chennai – 102.

2.The Branch Manager,
IDBI Bank, 12/18, Jai Towers,
Seethakkathi Salai,
Mogappair, Chennai – 600 037.

3.The Branch Manager,
Punjab National Bank,
2nd Avenue, Anna Nagar,
Chennai – 600 040. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus thereby call for the Assessment Order vide DRC 07 in GSTIN.33ADCFS4937M1ZQ/2017-18 dated 30/12/2023 (impugned Order) issued by the 1st respondent and quash the same as illegal and arbitrary and direct the 1st respondent to remove the attachments of the bank accounts and direct the 1st respondent to drop the unreasonable demand proceedings confirmed against him.

For Petitioner	:	Mr.A.Dhamodaran
For 1st Respondent	:	Mrs.K.Vasanthamala, Government Advocate (Tax)

O R D E R

Challenging the assessment order dated 30.12.2023 passed by the 1st respondent and also for a direction to the 1st respondent to remove the attachment of the petitioner's bank account, this writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner, who was a distributor of AIRCEL Limited doing recharge of sim cards, terminated his operations and vacated the premises in April 2018 and he received a notice regarding discrepancies between GSTR-1 and GSTR-3B for the period July 2017 to March 2018, proposing taxes, interest and penalties, totalling Rs.57,25,986/-. Subsequently, the 1st respondent passed the

assessment order dated 30.12.2023, confirming the demand Rs.57,25,986/-, followed by a recovery notice and GST DRC 13 notices during May and June 2024 to freeze the petitioner's bank account, were not reached the petitioner, as all of them have been uploaded in the GST web portal and the petitioner was unable to access the portal, as his registration was cancelled in the year 2018. Further, the 1st respondent proceeded to attach the bank accounts of the petitioner to recover the tax demand. In these circumstances, the petitioner is before this Court.

3. The learned Government Advocate appearing for the 1st respondent submitted that though the notice of personal hearing was uploaded by the 1st respondent in the GST web portal, the petitioner had failed to appear before the 1st respondent for the personal hearing held on 26.10.2023, which resulted in freezing the petitioner's bank accounts to recover the tax demand and considering the said fact, this Court may pass suitable orders.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the 1st respondent and perused the materials placed before this Court.

5. Considering the fact that the impugned assessment order was not at all served on the petitioner in physical form, which is a violation of principles of natural justice and the petitioner came to know about the same only after his bank received a communication from the 1st respondent freezing his bank accounts for recovering the tax demand and also the fact that the petitioner cannot be expected to view the GST web portal, as his registration was cancelled, this Court is inclined to set aside the assessment order passed by the 1st respondent dated 30.12.2023 and the communication of the 1st respondent to the 2nd respondent dated 20.05.2024 and accordingly, the same are set aside on condition that the petitioner shall deposit 10% of the disputed tax demand, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, file a reply within a period of two (2) weeks. After receipt of the reply, the 1st respondent shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law.

With the above direction, these writ petition is disposed of. No costs. Connected W.M.P.s are closed.

09.08.2024

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Index : Yes/No
Neutral Citation : Yes/No

To

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KRISHNAN RAMASAMY, J.

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