IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.21472 of 2024
AND
W.M.P.Nos.23439 & 23442 of 2024

M/s.Senthil Andavar Stores,
represented by its Proprietor, Mr.Jayabal Kannan,
No.27, Railway Station Road,
Selvaraj Nagar, Urapakkam,
Kancheepuram, Tamil Nadu – 603 211. ..
Petitioner

Vs

The Deputy State Tax Officer – II,
Maraimalainagar Assessment Circle,
Commercial Tax Department,
4/109, Second Floor,
Bangalore – Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai – 123. .. Respondent

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 FORM DRC 07 in GSTIN.33AYWPK2869B1Z6 /2017-18 dated 30/12/2023 (impugned Order) issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the attachments of the bank account and direct the respondent to drop the unreasonable demand proceedings confirmed against him.

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

ORDER

Challenging the assessment order dated 30.12.2023 passed by the respondent and also for a direction to the 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 runs a grocery store, received an intimation notice dated 23.09.2023, alleging underreporting sales with difference between GSTR 2A and GSTR 3B for the FY 2017-18 and a notice in Form GST DRC 01 dated 27.09.2023, was issued to the petitioner, demanding Rs.97,750/- with interest and penalty. Thereafter, the respondent passed the assessment order dated 30.12.2023, confirming the demand proposed in the notice dated 27.09.2023, which was merely uploaded in the GST web portal. Only on receipt of a copy of the communication dated 28.05.2024 of the respondent to the petitioner's

bank, *viz*., State Bank of India, about freezing of the bank account held by the petitioner for recovery of the tax arrears, the petitioner came to know about the assessment order dated 30.12.2023 passed by the respondent, challenging which, the petitioner is before this Court.

3. The learned Government Advocate appearing for the respondent submitted that though the notice of personal hearing was uploaded by the respondent in the GST web portal, the petitioner had failed to appear before the respondent for the personal hearing held on 13.12.2023, which resulted in freezing the petitioner's bank account to recover the tax arrears 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 respondents 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 respondent freezing his bank account

for recovering the tax arrears and also the fact that the petitioner is, after all, a seller of grocery items, who cannot be expected to view the GST web portal, this Court is inclined to set aside the assessment order passed by respondent dated 30.12.2023 and the communication of the respondent dated 28.05.2024 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 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
(1/2)

gya

Index : Yes/No
Neutral Citation : Yes/No

To

1.The Deputy State Tax Officer – II,
Maraimalainagar Assessment Circle,
Commercial Tax Department,
4/109, Second Floor,
Bangalore – Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai – 123

2.The Branch Manager
State Bank of India
No.4, GST Road, Urapakkam
Kancheepuram District 603 210

Since the bank is not arrayed as a party, Registry is directed to communicate this order to the bank.

KRISHNAN RAMASAMY, J.

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W.P.No.21472 of 2024

09.08.2024

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