IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.21779, 21786 & 21790 of 2024
and
W.M.P.Nos.23762, 23763, 23764, 23767, 23770, 23774, 23775, 23776, 23779, 23781, 23782 & 23783 of 2024

Raman Eswaran ...Petitioner in all W.Ps'

Vs.

1. The State Tax Officer,
Tiruchengode (town) Circle,
No.100/3, Upstairs, Sengunthar Pavadi trust building,
SSD Road, Tiruchengode.

2. The Sub-Registrar,
9VJV+2XM, Tiruchengode-Paramathi Velur Road (SH-86),
Near Anna Statue, Thondikaradu, Tiruchengode,
Tamil Nadu-637 211. ... Respondents in all W.Ps'

Prayer in W.P.21779/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records under section 74 of the TNGST Act dated 31.03.2023 having Reference Number No.ZD330323165014X along with Summary of the order 31.03.2023 having Reference Number ZD330323165014X (Impugned Order) passed by the first respondent to quash the same.

Prayer in W.P.21786/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records under section 74 of the TNGST Act dated 29.03.2023 having Reference Number No.ZD330323142229P along with summary of the order dated 29.03.2023 having Reference No.ZD330323142229P (Impugned Order) passed by the first respondent to quash the same.

Prayer in W.P.21790/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records under section 74 of the TNGST Act dated 27.03.2023 having Reference Number No.ZD330323129680Q along with summary of the order dated 27.03.2023 having Reference No.ZD330323129680Q (Impugned Order) passed by the first respondent to quash the same.

(Appearance in all W.P.s')

For Petitioner : Mr.G.Sudhakar

For Respondent 1 : Mr.G.Nanmaran,
Special Government Pleader (T)

COMMON ORDER

Since the issue involved and the relief sought for in all these three Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the impugned orders dated 31.03.2023, 29.03.2023 & 27.03.2023 passed by the first respondent, the petitioner have filed these Writ Petitions.

3. Mr.G.Nanmaran, learned Special Government Pleader (Tax), takes notice on behalf of the first respondent.

4. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

5. Alleging that there are certain defects in the monthly returns filed by the petitioner for the financial years 2017-2018, 2018-2019 and 2019-2020, the first respondent passed impugned orders dated 31.03.2023, 29.03.2023 & 27.03.2023, demanding the payment of differencial amount in respect of impugned assessment period.

6. The learned counsel for the petitioner submitted that the Show Cause Notices issued by the first respondent, granting an opportunity of personal hearing is on 06.03.2023, wherein the date for submission of the reply is mentioned as 27.03.2023. Due to some confusion in the dates, the petitioner's authorized representative appeared before the first respondent on 06.03.2023 and sought extension of time of 25 days, which the petitioner was not aware of

the same. However, all of a sudden, on 20.03.2024, the first respondent issued notice in Form GST DRC-16 to the second respondent, regarding the attachment of the properties of the petitioner and also proceeded to inititate proceeding against the petitioner. The learned counsel for the petitioner contended that the first respondent has not provided any reasonable opportunity of hearing to the petitioner to submit his reply to the show cause notices, as the petitioner was totally unaware of the proceedings. He further submits that, if an opportunity is provided, the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax in respect of the impugned assessment period.

7. Mr.G.Nanmaran, learned Special Government Pleader appearing for the first respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

8. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the first respondent and perused the materials available on record.

9. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was issued by the first respondent. According to the petitioner, the petitioner was unaware of the total proceedings. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice.

10. For the reasons stated above, this Court is inclined to set aside the impugned orders dated 31.03.2023, 29.03.2023 & 27.03.2023 passed by the first respondent, with the following directions:-

> (i) The orders impugned herein are set aside and the matters are remanded to the respondents for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax to the respondents in respect of the assessment years 2018-2019 and 2019-2020 within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(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 orders itself have been set aside, this Court is of the opinion that the attachment of the petitioner's properties cannot survive any longer and hence, it is ordered to be lifted. The second respondent is directed to pass appropriate order for release of the petitioner's properties immediately upon the production of a copy of this order, in case if the properties are attached.

11. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.08.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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Note: Registry is directed to send a copy of this order to the second respondent.

To
1. The State Tax Officer,
Tiruchengode (town) Circle,
No.100/3, Upstairs, Sengunthar Pavadi trust building,
SSD Road, Tiruchengode.

2. The Sub-Registrar,
9VJV+2XM, Tiruchengode-Paramathi Velur Road (SH-86),
Near Anna Statue, Thondikaradu, Tiruchengode,
Tamil Nadu-637 211.

Krishnan Ramasamy,J.,

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