IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.23059 of 2024
and
W.M.P Nos.25150 and 25151 of 2024

Tvl.Fashion Square,
Rep. by its Partner Mr.Vijay Madhav Pai,
Plot No.9, Rajeswari Nagar, 2nd Street,
Palwell Road, St.Thomas Mount,
Chennai - 16. ... Petitioner

Vs.

1. The Assistant Commissioner (ST),
Ekattuthangal Assessment Circle,
No.571, Integrated Commercial Taxes Office Department,
Room No.305, 3rd Floor, (South Tower),
Nandanam, Chennai - 35.

2. The Branch Manager,
H.D.F.C. Bank,
New No.105, Habibullah Road,
T.Nagar, Chennai - 17. ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records in the files of the first respondent in GSTIN 33AACFF3756C2ZU/2018 - 19, dated 15.04.2024 and quash the same.

For Petitioner : Dr. D. Vijayakumar

For Respondent : Mr.V. Prashanth Kiran
Government Advocate (T)

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ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records in the files of the first respondent in GSTIN 33AACFF3756C2ZU/2018 - 19, dated 15.04.2024 and quash the same.

2. The learned counsel for the petitioner submits that since the respondent sent all the correspondences only through portal and that too in "Additional Notices / Orders" and failed to intimate the same to the tax payer. Though uploading portal is one of the mode of service, this Court held that at least one notice should be served under Section 169(1)(a)(b)(c) of the GST Act. In the present case, the respondent did not serve the copy to the petitioner and hence, they are unable to file written objection to explain the case. Further, the Act specifically provides for personal hearing. However, the respondent without issuing personal hearing notice, passed the impugned order. Thus, the impugned order not only violated the law and also violated the principles of

natural justice. Now, the first respondent attached the petitioner's bank account with the second respondent and prevented the petitioner's day-to-day affairs of the business. Hence, the impugned orders are liable to be set aside.

3. The learned Government Advocate for the respondent would submit that though the notices were uploaded by the first respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing and hence, the petitioner cannot complain of the breach of principles of natural justice. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

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

5. Considering the facts that all the notices were uploaded in the portal under the "Additional Notices/Orders" and therefore, the petitioner had no occasion to view the said column and the impugned order and attachment order were passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles

of natural justice, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. Hence, the impugned order is liable to be set aside.

6. Accordingly, the impugned order passed by the first respondent dated 15.04.2024 and the attachment order dated 15.07.2024 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. On production of proof of the deposit, the attachment order shall stand raised. While setting aside the impugned order as well as the attachment order, this Court is inclined to remand the matter to the first respondent for consideration and accordingly, the matter is remitted back to the first respondent. The petitioner is directed to file their reply within a period of two (2) weeks and on receipt of the reply filed by the petitioner, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

09.08.2024

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Note: Issue order copy on or before 13.08.2024

To

1. The Assistant Commissioner (ST),
   Ekattuthangal Assessment Circle,
   No.571, Integrated Commercial Taxes Office Department,
   Room No.305, 3rd Floor, (South Tower),
   Nandanam, Chennai - 35.

2. The Branch Manager,
   H.D.F.C. Bank,
   New No.105, Habibullah Road,
   T.Nagar, Chennai - 17.

KRISHNAN RAMASAMY, J.

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