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W.P.Nos.22242 & 22244 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.22242 & 22244 of 2024

and

W.M.P.Nos.24225 to 24228 of 2024

M/s.Om Sakthi Leather Finishers,
Represented by its Proprietor,
Mr.Saravanan R,
No.86, Girisamuthiram, Old Colony,
Vaniyambadi, Tirupattur 635 751.

...Petitioner in both W.Ps

Vs.

1. Union of India,
Represented by its Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi 110 001.
2. Central Board of Indirect Taxes and Customs,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110 001.
3. The State Tax Officer (ST),
Vaniyambadi,
Pandit Jawaharlal Nehru Road,
Court Complex, Vaniyambadi 635 751.
4. The Branch Manager,



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State Bank of India,
Vaniyambadi Branch,
CLRD, Khaderpet,
Vaniyambadi,
Vellore District 635 751.

... Respondents in both W.Ps.

Prayer in W.P.No.22242 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order dated 31.12.2023 issued in reference no.ZD3312232932898 by the 3rd respondent and quash the same.

Prayer in W.P.No.22244 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned letter dated 13.05.2024 issued by the 3rd respondent to the 4th respondent and quash the same.

Appearance in both W.Ps.

For Petitioner : Mr.G.Derrick Sam
For R3 : Mr.V.Prashanth Kiran
Government Advocate (T)

COMMON ORDER

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

2. Alleging that the petitioner had utilised Input Tax Credit in contravention of Section 16(4) of the CGST Act, 2017, the 3rd respondent uploaded a show cause notice dated 30.09.2023 raised on the petitioner in the



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portal under “view additional notices column”. As the said show cause notice was not noticed by the petitioner, the petitioner failed to respond to the same. Therefore, the 3rd respondent passed an impugned order dated 31.12.2023 confirming the proposal made in the said show cause notice. When the petitioner intended to withdraw funds from the petitioner's bank account, the petitioner came to know about the impugned order passed by the third respondent. The petitioner's bank account has been locked without prior notification and the Bank informed that the account of the petitioner was attached as per the letter dated 13.05.2024 issued by the 3rd respondent. Aggrieved by the said impugned order dated 31.12.2023 and the impugned letter dated 13.05.2024 issued by the 3rd respondent, the petitioner have filed these Writ Petitions.

3. The learned counsel for the petitioner submitted that, the petitioner would be able to establish their case if an opportunity is provided and that the petitioner agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

4. The learned Government Advocate appearing for the third respondent would submit that, subject to the deposit of 10% of the disputed tax



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demand by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the third respondent and perused the materials available on record.

6. 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 through the GST Portal Tab “View Additional Notices Column”. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

7. For the reasons stated above, the impugned order, dated 31.12.2023 is



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set aside on condition that the petitioner deposits 10% of the disputed tax amount in respect of the impugned assessment period within a period of four weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply, by enclosing all relevant documents within a period of two weeks after the deposit of 10% disputed tax amount. Upon receipt of such reply, the third respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter pass fresh orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of the petitioner's reply.

8. With the above directions, the W.P.No.22242 of 2024 is disposed of. In view of the order made in W.P.No.22242 of 2024, the W.P.No.22244 of 2024 is allowed and the fourth respondent is directed to release the petitioner's Bank account. No costs. Consequently, the connected MPs are closed.

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Krishnan Ramasamy,J.,
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