IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22807 of 2024
and W.M.P.No.24839 of 2024

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Represented by its Partner M.Ilankumaran
No.22/32, Journalist Colony, Srinivasapuram,
Thiruvanmiyur, Chennai,
Tamil Nadu - 600 041. ... Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
Thiruvanmiyur: South-III: Chennai South.

2. The Assistant Commissioner (ST),
Thiruvanmiyur Assessment Circle,
Integrated Building for Commercial Taxes and Registration Department,
2nd Floor, Nandanam, Chennai - 600 035.

3. The Manager,
RBL Bank, Parry's Corner Branch,
Chennai - 600 001.

4. The Manager,
RBL Bank, Perungudi Branch,
Chennai - 600 096. ... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent bearing reference No.ZD3312232847576 dated 30.12.2023 passed by the first respondent and consequently, direct the second, third and fourth respondents to defreeze Promark Projects Pvt. Ltd. Bank A/c Nos.609000913745 and 409001686785 and M.Ilan Kumaran's RBL Bank A/c Nos.309014667028 and 409001861533 of the petitioner.

For Petitioner : Ms.S.Gayathri

For Respondents : 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 Certiorarified Mandamus, to call for the records of the first respondent bearing reference No.ZD3312232847576 dated 30.12.2023 passed by the first respondent and consequently, direct the second, third and fourth respondents to defreeze Promark Projects Pvt. Ltd. Bank A/c Nos.609000913745 and 409001686785 and M.Ilan Kumaran's RBL Bank A/c Nos.309014667028 and 409001861533 of the petitioner.

2. The learned counsel for the petitioner submits that the GST

registration for retail business in electronics was suo-motu cancelled on 31.03.2020 and the petitioner came to know only after receiving the message from the bank on 22.07.2024 that there has been attachment in the petitioner's personal account due to GST demand. The show cause notice in Form DRC -01 along with annexure were sent through GST web portal and the same were not served physically to the petitioner, due to which, the petitioner was unaware of the said notice. Therefore, he submits that the said impugned order passed by the first respondent as well as the recovery notice issued by the second respondent are in violation of principles of natural justice since prior to the passing of the impugned order, neither opportunity for filing the reply nor the opportunity of personal hearing was provided by the respondents to the petitioner.

3. The learned Government Pleader for the respondent would submit that though the show cause notice and personal hearing notice were uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. 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 respondents and perused the materials placed before this Court.

5. In the present case, it appears that the notices have been uploaded in the web portal and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

6. Accordingly, the impugned order passed by the first respondent dated 30.12.2023 and the recovery notice issued by the second respondent dated 19.07.2024 are set aside. While setting aside the impugned order as well as the recovery notice, this Court remits the matter back to the first respondent 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, the petitioner is directed to file a reply within a period of two (2) weeks. On production of proof of the deposit, the authorities concerned are

directed to de-freeze Promark Projects Pvt. Ltd. Bank A/c Nos.609000913745 and 409001686785 and M.Ilan Kumaran's RBL Bank A/c Nos.309014667028 and 409001861533. After receipt of the reply, 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 directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

09.08.2024

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To

1. The Deputy Commercial Tax Officer,
   Thiruvanmiyur: South-III: Chennai South.

2. The Assistant Commissioner (ST),
   Thiruvanmiyur Assessment Circle,
   Integrated Building for Commercial Taxes and
   Registration Department,
   2nd Floor, Nandanam, Chennai - 600 035.

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