IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. No.22799 of 2024
AND
W.M.P. Nos.24828, 24829 & 24830 of 2024

Mutharamman & Co.
represented by its Proprietor
P. Sivakumar
240/5, Nagathamman Nagar
Thiruninravur
Thiruvallur
Tamil Nadu 602 024 ... Petitioner

vs.

1 The Assistant Commissioner (ST)
Avadi Assessment Circle
Survey No.1275/3
Integrated Commercial Taxes Building (North Division)
I Floor, Room No.124, Elephant Gate Bridge Road
Vepery, Chennai 600 003

2 The State Tax Officer
Avadi Assessment Circle
Wall Tax Road
Chennai 600 003

3 The Bank Manager
Indian Bank
33, Madurai Road
Tirunelveli Junction
Tirunelveli 627 001 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the proceedings of the first respondent in GSTIN/33BBEPS1762B1ZO/2017-2018 dated 20.12.2023, the order under Section 73 and the summary of the order in Form GST DRC-07 dated 20.12.2023 passed in Reference No.ZD331223146099J and quash the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017 and also against the principles of natural justice.

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| For petitioner | Mr. P. Rajkumar |
| For RR 1 & 2 | Mr. C. Harsha Raj<br>Additional Government Pleader (Taxes) |

**ORDER**

Challenging the assessment order dated 20.12.2023 passed by the 1st respondent in Ref.No.ZD331223146099J, this writ petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner, who is a registered dealer on the file of the 1st respondent and who deals with MS scrap and other scraps, engaged a tax consultant for the purpose of all GST compliances and so, he did not log into the GST web portal. While so, the petitioner received an information from his banker/3rd respondent that his account was attached by the 1st respondent *vide* recovery notice dated 25.06.2024, towards arrears of tax, interest and penalty, pursuant to the assessment order dated 20.12.2023.

3. The learned counsel appearing for the petitioner further submitted that the said assessment order passed by the 1st respondent stating that the petitioner had filed TRAN-I claiming ITC to a tune of Rs.13,95,565/-, for which declaration forms were not filed, is factually wrong, because the petitioner, in TRAN-I, had claimed Rs.6,94,816/- under excess CENVAT credit and VAT credit Rs.39,85,129/- on local purchases. Subsequently, the notices and the assessment order passed by the 1st respondent were uploaded in the GST web portal in the "additional notices" tab and the same were not served on the petitioner either through e-mail or any other mode. Further, the 1st respondent proceeded to attach the bank account of the petitioner to recover the tax demand. In these circumstances, the petitioner is before this Court.

4. The learned Additional Government Pleader (Taxes) appearing for the respondents 1 and 2 submitted that though the notice of personal hearing was uploaded by the 1st respondent in the GST web portal, the petitioner had failed to appear before the 1st respondent for the personal hearings held on 12.10.2023 and 18.12.2023, which resulted in freezing the petitioner's bank account to recover the tax demand.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) appearing for the respondents 1 and 2 and perused the materials placed before this Court.

6. 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 1st respondent freezing his bank account for recovering the tax demand, this Court is inclined to set aside the assessment order passed by the 1st respondent dated 20.12.2023 and also the communication of the 1st respondent to the 3rd respondent dated 25.06.2024 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 1st 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, this writ petition is disposed of. No costs. Connected W.M.P.s are closed.

14.08.2024

gya
Index : Yes/No
Neutral Citation : Yes/No

To

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KRISHNAN RAMASAMY, J.

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