IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22679 of 2024
and
W.M.P.Nos.24705, 24706 & 24708 of 2024

Tvl.P.R.& Co.
Rep by its Partner,
Mr.M.N.Paranthaman,
No.152, Samundipuram,
Nellorepet, Gudipattam,
Vellore, Tamil Nadu 632 602.

... Petitioner

Vs.

1.Deputy State Tax Officer-2,
Gudiyatham West Assessment Circle,
Vellore, Tamil Nadu

2.State Tax Officer,
Gudiyatham (West) Assessment Circle,
Railway Station Road,
Parasarampatti Village,
Gudiyatham 635 803

3.The Branch Manager,
City Union Bank Limited,

No.7, Congress House Road,
Pudupet, Gudiyatham 632 602.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent's order dated 15.03.2024 bearing Proc No.GSTN: 33AAPFP5586R1Z5/2019-20 and consequential recovery notice in Form GST DRC-13 dated 08.07.2024 issued by 2nd respondent and quash the same.

For Petitioner	:	Mr.S.Srisankar
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate for R1 & R2

ORDER

This writ petition has been filed challenging the impugned order dated 15.03.2024 and the consequential recovery notice dated 08.07.2024.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents 1 and 2. By consent

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

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would contend that the respondent has already recovered a sum of Rs.8,02,025/- out of the total demand amount of a sum of Rs.39,07,020/- vide the recovery notice dated 08.07.2024. Hence, he requests this Court to set aside the impugned order and remand this matter back to the respondent.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, she requests this Court to pass appropriate orders.

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

7. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. Further, it was submitted by the petitioner that the

respondent has already recovered a sum of Rs.8,02,025/- out of the total demand amount of a sum of Rs.39,07,020/-. In such view of the matter, this Court is inclined to set aside the impugned order dated 20.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(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 order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner, vide notice dated 08.07.2024 cannot survive any longer and hence, it is lifted. As a sequel, the 3rd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the production of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

13.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The Deputy State Tax Officer-2,
Ekkatuthangal Assessment Circle,
No.571, Integrated Registration and Commercial Taxes Building,
Room No.306, 3rd Floor, Nandanam, Chennai 35

KRISHNAN RAMASAMY.J.,

nsa

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