IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 14.08.2024**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.No.23068 of 2024 and**
**W.M.P.Nos.25166 & 25167 of 2024**

Tvl.Classic Enterprises,
Represented by Vijai Raghavendra Rao,
1/10, Kannagi Street, Vishalakshi Nagar,
Ekkattuthangal,
Chennai 600 032. ...Petitioner

Vs.

1. The Deputy State Tax Officer-I,
Ekkattuthangal Assessment Circle,
No.571, Integrated Commercial Taxes and Registration
Department, Room No.306,
3rd floor, Nandanam, Chennai-35.

2. Assistant Commissioner (ST),
Ekkatuthangal Assessment Circle,
Room No.305, 3rd floor,
Integrated Building of Commercial Taxes and
Registration Department, Nandanam, Chennai-35.

3. The Manager,
Karur Vysya Bank,
St.Thomas Hospital Defence Colony,
St. Thomas Mount, Chennai-600 016. ... Respondents

**Prayer:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing GSTIN 33AGRPV6893K1ZA/2017-2018 dated 26.12.2023 passed by the first respondent and quash the same, subsequently direct the Second Respondent to lift the bank attachment made vide letter dated GSTIN: 33AGRPV6893K1ZA/2023-24 dated 13.03.2024.

For Petitioner : Mrs.P.Vasuki
For Respondents 1 &2 : Mrs.K.Vasanthamala,
Government Advocate (T)

**ORDER**

This Writ Petition has been filed by the petitioner challenging the order dated 26.12.2023 passed by the first respondent for the assessment year 2017-2018.

2. Mrs.K.Vasanthamala, learned Government Advocate (Tax), takes notice on behalf of the respondents 1 & 2.

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

4. Alleging that there is a mismatch of tax liability between Form GSTR 3B and GSTR 2A/2B filed by the petitioner for the financial year 2017-

2018, the fist respondent passed an impugned order, dated 26.12.2023, demanding the payment of the differential amount with interest and penalty.

5. The learned counsel for the petitioner submitted that Show Cause Notice dated 29.09.2023 in Form DRC-01 raised on the petitioner in the GST common portal, as the petitioner was unaware of the same, he failed to respond the said notice. Further, he submitted that even an impugned order dated 26.12.2023 was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Pursuant to the impugned order passed by the first respondent, the petitioner's Bank account was attached by the second respondent on account of recovery proceedings. It is also submitted that, if an opportunity is provided and the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Mrs.K.Vasanthamala, learned Government Advocate appearing for the respondents 1 & 2 would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents 1 & 2 and perused the materials available on record.

8. 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 uploaded on the GST Portal Tab. 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 any opportunity of personal hearing to the petitioner to establish its 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.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 26.12.2023 passed by the first respondent with the

following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax in respect of the impugned assessment period to the first respondent within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(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 first 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 of the petitioner's Bank account cannot survive any longer and hence, it is ordered to be lifted. The second respondent is directed to instruct the Bank/third respondent to de-freeze the petitioner's Bank account immediately upon the production of a copy of this order, in case if the petitioner's Bank account is attached.

10. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**14.08.2024**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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**Krishnan Ramasamy,J.,**
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