IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25773 of 2024 &
W.M.P.Nos.28147 and 28148 of 2024

Tvl. Sujatha Medicals,
(Represented by its Proprietor A.Leelavathy)
No.47, Rathnasabapathy Street,
Washermenpet, Chennai 600 021. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Washermenpet Assessment Circle,
Integrated Commercial Tax Office Complex,
Wall Tax Road, Chennai 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order bearing GSTIN 33AABPL4108R1ZM/2017-2018 DATED 26.12.2023 passed by the Respondent and quash the same and subsequently lifting the bank attachment made by the Respondent as the same being arbitrary, passed in violation of principles of natural justice.

For Petitioner : Mr.P.Gowtham

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 26.12.2023 and quash the same and subsequently lift the bank attachment made by the Respondent as the same being arbitrary, passed in violation of principles of natural justice.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

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

4. The learned counsel for the petitioner would submit that in the present case, initially, the respondent has issued a show cause notice dated 20.09.2023 to the petitioner, and the said notice was uploaded in

the GST portal. Since Petitioner was not aware of the said notice they had failed to file their reply within the time. Under these circumstances, the impugned order dated 26.12.2023 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2017-2018, without affording an opportunity of hearing to the Petitioner and therefore the impugned assessment order is passed in violation of the principles of natural justice. He further submitted that subsequently the Respondent passed the order dated 24.07.2024 attaching the back account of the Petitioner and therefore he prays to set aside the impugned order and subsequently lift the bank attachment.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the show cause notice and the personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply in time and also failed to appear before the authority to substantiate his case and therefore the impugned assessment order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

8. In the present case, since the show cause notice followed by personal notice was uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the said show cause notice.

9. Further, 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 is 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 26.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 26.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents 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.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
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> (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 cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

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

09.09.2024

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

The Assistant Commissioner (ST)
Washermenpet Assessment Circle,
Integrated Commercial Tax Office Complex,
Wall Tax Road, Chennai 600 003.

KRISHNAN RAMASAMY.J.,

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