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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23888 of 2024
and
W.M.P.Nos.26150 & 26153 of 2024

M/s.Akash Agencies,
Rep by its Proprietor Shri Saravanan Nallathambi,
No.1/926, 7th Street, Muthamizh Nagar,
Kodungaiyur, Chennai, Tamil Nadu 600 118

... Petitioner

Vs.

1.The Deputy State Tax Officer II,
Kodungayur Assessment Circle,
Room No.203, Second Floor, No.32,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

2.Assistant Commissioner (ST),
Kodungayur Assessment Circle,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

3.The Branch Manager,
Karur Vysa Bank, Thiruma Complex,
44/1, Pantheon Road, Egmore,
Chennai 600 008.

... Respondent

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Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order No.GSTIN: 33CIDPS9221G1Z9/2018-19 dated 20.03.2024 passed by the 1st respondent and quash the same and subsequently lift the bank attachment made vide letter GSTIN: 33CIDPS9221G1Z9/DSTO-3/2024 dated 21.06.2024 which was issued by the 2nd respondent.

For Petitioner : Mr.P.Gowtham

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader
for R1 and R2

ORDER

This writ petition has been filed challenging the impugned order dated 20.03.2024 passed by the 1st respondent and to lift the bank attachment made vide letter dated 21.06.2024.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, 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

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stage itself.

3. The learned counsel for the petitioner would submit that in the present case, the show cause notice issued by the respondents on 20.12.2023 demanding tax liabilities from the petitioner. Subsequently, the petitioner has paid the tax liabilities and also filed their reply on 01.02.2024 along with the relevant documents i.e., the proof with regard to the payment of aforesaid tax liabilities. However, while passing the impugned order, the 1st respondent has stated that the reply filed by the petitioner was rejected since it was filed without any relevant documents, in which case, it is clear that the impugned order came to be passed without considering the reply filed by the petitioner and hence, he requests this Court to set aside the said impugned order.

4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would fairly submit that while passing the impugned order, though the reply was taken into consideration, the documents, which were filed along with the reply, was not at all considered by the 1st respondent. Hence, he requests this Court to pass appropriate orders.

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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

6. In the present case, in the impugned order, it has been stated that the reply filed by the petitioner was rejected by the 1st respondent on the ground that no relevant documents were filed along with the said reply. However, it was submitted by the petitioner that all the relevant documents were filed along with the reply dated 01.02.2024, in which case, it appears that the reply filed by the petitioner was not at all considered by the 1st respondent while passing the impugned order, which is violation of principles of natural justice.

7. In view of the above, this Court is inclined to set aside the impugned order dated 20.03.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

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(i) The impugned order dated 20.03.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(ii) The petitioner shall file a hard copy of their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st 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 letter dated 21.06.2024, 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.

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

20.08.2024

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

To

1.The Deputy State Tax Officer II,
Kodungayur Assessment Circle,
Room No.203, Second Floor, No.32,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

2.Assistant Commissioner (ST),
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