IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24252 of 2024
& W.M.P.Nos.26495 & 26496 of 2024

PSN Construction,
Rep by its Proprietor,
Mr.Punganoor Sarangapani Nagireddy,
No.7, Jayalakshmi Complex, II Floor,
Sai Krupa Nagar, Janapanchatram,
Karanodai 600 067.

... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FAC),
Cholavaram Assessment Circle,
Room No.109, I Floor,
Integrated C, P. Buildings,
Chennai 600 003.

2.The Manager,
IDBI Bank,
Sri Lakshmi,
B-26, Karthikeyan Salai,
Periyar Nagar,
Chennai 600 082.

... Respondents

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 of the impugned order passed by the respondent in GSTIN 33ALSPP3575E1ZS/2017-18 dated 22.12.2023 and seeking to quash the same as arbitrary along with the DRC-07 order under Section 73, Ref.No.ZD331223213785M dated 27.12.2023 issued by the 1st respondent and consequential direct the 1st respondent to drop the bank attachment/Freezing notice to the 2nd respondent vide notice in Form GST DRC-13 No.GSTN 33ALSPP3575E1ZS/2024 dated 15.07.2024.

For Petitioner : Mr.M.Narasimha Bharathi

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate, for R1

ORDER

This writ petition has been filed challenging the impugned order dated 22.12.2023 and 27.12.2023 passed by the 1st respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the 1st respondent. 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 the 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. On the other hand, the learned Government Advocate appearing for the 1st 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, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and also perused the materials available on record.

6. 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 since 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 orders dated 22.12.2023 and 27.12.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 22.12.2023 and 27.12.2023 are set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from today (29.08.2024) 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 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 orders itself have 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 2nd respondent is directed to release the attachment and de-freeze the bank accounts of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the disputed tax amount as stated above.

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

29.08.2024

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

To

The Deputy State Tax Officer,
Bhavani Assessment Circle,
158/1002, Pookadai Veedhi,
Bhavani 638 601.

KRISHNAN RAMASAMY.J.,

nsa

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