IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24299 of 2024
& W.M.P.Nos.26546 & 26547 of 2024

Tvl.Paterson Securities Pvt.Ltd.,
Rep by its Authorised Signatory, S.Venkatesan,
No.48, 3rd Floor, Vanguard House,
2nd Line Beach, Parrys,
Chennai 600 001.

... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FAC),
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003

2.The Branch Manager,
HDFC Bank,
Parrys Branch, Chennai 1

... 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 in the files of the 1st respondent in GSTIN: 33AAACP4386P1ZY/2017-18 dated 26.12.2023 and quash the same as illegal, invalid without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.G.Nanmaran,
Special Government Pleader for R1

ORDER

This writ petition has been filed challenging the impugned order dated 26.12.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, 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 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 Special Government Pleader appearing for the 1st respondent would submit that the 1st 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 1st respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. In reply, the learned counsel appearing for the petitioner would submit that subsequent to the impugned order, a portion of tax amount was recovered by the 1st respondent vide attachment of the bank account of the petitioner. Hence, he requests this Court to direct the 1st respondent to adjust the recovered amount against the 10% of the disputed tax amount, which has to be deposited by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the 1st 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 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 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 1st 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 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 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 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.

27.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Assistant Commissioner (ST)(FAC),
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003

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(1/2)