IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.24235 & 24243 of 2024
and
W.M.P.Nos.26486, 26487, 26485, 26492, 26490 & 26491 of 2024

Tvl.Srinath Agencies,
Rep by its Authorised Signatory,
14, Jaffer Sarang, Parrys, Chennai 600 001,
Now at 707C and 707D, 8th Floor, Ecstasy Business Park,
City of Joy, JSD Marg, Mulund West,
Mumbai 400 080.

... Petitioner in both petitions

Vs.

1.State Tax Officer,
Broadway Assessment Circle,
3rd Floor, Wall Tax Road,
Room No.305, Chennai 60 003.

2.The Branch Manager,
Axis Bank Limited, LBS Marg Branch,
Shop No.1, New Commercial Wing, Vikas Paradise,
Mulund West, Mumbai 400 080.

3.The Branch Manager,
Axis Bank Limited, Mundra Branch,
Engineering Block Near Admin Building,
Mundra Port SEZ Ltd.,
Mundra, Gujarat 370 421.

... Respondents in both petitions

Common 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 order bearing Nos.GSTIN:33AACFS4330D1Z0/2017-18 dated 27.12.2023 & GSTIN:33AACFS4330D1Z0/2019-20 dated 19.01.2024 passed by the 1st respondent and quash the same as arbitrary and illegal and to direct the 1st respondent to direct the 2nd and 3rd respondents to lift the bank attachment and to refund the amount already appropriated from the bank account of the petitioner.

For Petitioner
in both petitions : Mr.Joseph Prabakar

For Respondent
in both petitions : Mr.C.Harsha Raj,
Additional Government Pleader for R1

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 27.12.2023 & 19.01.2024 passed by the 1st respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader takes notice on behalf of the 1st respondent in both petitions. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that based on the voluntary request made by the petitioner, the GST Registration of the petitioner was canceled vide order dated 12.01.2022 with effect from 31.12.2021. Subsequently, the "Nil Liability Certificate" was also issued to the petitioner. Therefore, the petitioner was under the impression that there will be no further tax liabilities against them, due to which they had no occasion to view the GST Portal. At this juncture, the proceedings were initiated by the respondent and 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 orders came to be passed by the 1st respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that subsequent to the impugned assessment orders, a lien was created by the 1st respondent for a sum of Rs.10,17,63,100.58/- and Rs.11,18,44,540/-, which are available in the current accounts of the petitioner at the Bank-respondents 2 and 3 respectively. That apart, he would also submit that the 1st respondent had already recovered a sum of Rs.1.81 Crore from the petitioner, which would comes around 20% of the demand amount and hence, he requests this Court to lift the bank attachment made by the 1st respondent.

5. In reply, the learned Additional Government Pleader appearing for the 1st respondent would also confirm the submissions made by the

learned counsel for the petitioner and hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st respondent and also perused the materials available on record.

7. In the present case, it is crystal clear that the GST registration of the petitioner was canceled vide order dated 12.01.2022 with effect from 31.12.2021 and the "Nil Liabilities Certificate" was also issued to the petitioner. Under these circumstances, the proceedings were initiated and the notices were uploaded during the month of January, 2023 for the assessment years 2017-18 and 2019-20 and the impugned assessment orders dated 27.12.2023 & 19.01.2024 were passed by the 1st respondent. Since the petitioner was not aware of the notices issued and impugned orders passed by the 1st respondent, they had neither filed their reply nor participated in the personal hearing.

8. In view of the above, it is clear that the impugned orders were 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 27.12.2023 and 19.01.2024 passed by the 1st respondent.

9. It also appears that subsequent to the said impugned assessment orders, the lien was created vide letter dated 15.07.2024 and 17.07.2024 for the amount available in the current accounts of the petitioner at the Banks-respondents 2 and 3. That apart, it was also submitted by both the learned counsel that the 1st respondent has already recovered a sum of Rs.1.18 Crores from the petitioner, which would come around 20% of the total demand amount. In such view of the matter, this Court is inclined to lift the attachment order passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 27.12.2023 and 19.01.2024 are 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 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 orders itself have been set aside, this Court is of the opinion that the attachment made on the bank accounts of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the respondents 2 and 3 are directed to release the attachment and de-freeze the bank accounts of the petitioner, immediately upon the production of a copy of this order.

7. With the above directions, these writ petitions are disposed of.

No costs. Consequently, the connected miscellaneous petitions are also closed.

22.08.2024

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

Note: *Issue order copy on 23.08.2024*

To

State Tax Officer,
Broadway Assessment Circle,
3rd Floor, Wall Tax Road,
Room No.305, Chennai 60 003.

KRISHNAN RAMASAMY.J.,

nsa

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