IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2024

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.25020 & 25022 of 2024
and
W.M.P.Nos.27358, 27359, 27363 & 27364 of 2024

M/s. Commercial Enterprises,
Represented by its Proprietor,
Mr.Ladavaram Gopalan Ravi,
Door No.299, 3rd Floor, Linghi Chetty Street,
Chennai, Tamil Nadu 600 001.

...Petitioner in both W.Ps'

Vs.

1. The Assistant Commissioner (ST)
Office of the Assistant Commissioner (ST),
Harbour Assessment Circle,
Integrated Commercial Taxes Building,
Chennai North Division,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai 600 003.

2. Syndicate Bank (Canara Bank),
Ground Floor, Leelavathy Building,
69, Armenian Street,
PB No.1543, Chennai 600 001.

... Respondent in both W.Ps'

Prayer inW.P.No.25020 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of impugned order ZD3312231794489 bearing reference to GSTIN: 33AAEPR7440K1ZI/2017-2018 dated 22.12.2023 in the files of the First respondent and quash the same.

Prayer in W.P.No.25022 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of impugned recovery notice in Form DRC-13 dated 16.04.2024 along with recovery effected in the files of the first respondent and quash the same.

Appearance in both W.P.s'

For Petitioner : Mr.S.Muthu Venkataraman

For Respondents : Mr.J.N.C.Kaushik
Additional Government Pleader (Tax)

COMMON ORDER

Since the issue involved and the relief sought in both these Writ Petitions are identical in nature, the same were heard together and are disposed of vide this common order.

2. Challenging the impugned order dated 22.12.2023 passed by the first respondent for the assessment year 2017-2018 and consequential recovery

notice issued by the first respondent to the second respondent, the petitioner has filed these Writ Petitions.

3. Mr.J.N.C.Kaushik, learned Additional Government Pleader (Tax), takes notice on behalf of the respondents. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submitted that the Show Cause Notice in Form DRC-01 dated 19.09.2023 raised on the petitioner in the GST common portal. Pursuant to which, the first respondent proceeded to pass the impugned order dated 22.12.2023 through the GST common portal, as the petitioner was unaware of the same, he failed to file its reply to the said show cause notice in time. While so, without providing any opportunity to the petitioner, the first respondent passed the impugned order dated 22.12.2023 and the same was also uploaded in common GST portal and therefore the Show Cause Notice as well as the impugned order are passed in violation of the principles of natural justice. He further submitted that the entire disputed tax has already been recovered by the first respondent from the Bank account maintained by the petitioner with the second respondent.

5. Recording the said submission made by the learned counsel for the petitioner, this Court is inclined to set-aside the impugned order dated 22.12.2023 passed by the first respondent with the following directions:

(i) The orders impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration.

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

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to 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 of the petitioner's Bank account cannot survive any longer and hence, it is ordered to be lifted. The second respondent is directed to de-freeze the petitioner's Bank account immediately upon the production of a copy of this order, in case the petitioner's Bank account is attached.

6. With the above directions, these Writ Petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

02.09.2024

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

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Krishnan Ramasamy,J.,

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