IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24826 of 2024
& W.M.P.Nos.27180 to 27182 of 2024

M/s.Arumugam Brothers Maligai,
Rep by its Proprietor,
Mr.S.Karthesan,
3, Bajanai Koil Street,
Ernavoor, Chennai 600 057.

... Petitioner

Vs.

1.The Deputy State Tax Officer,
Manali Assessment Circle,
101, 1st Floor, Integrated CT Buildings,
Chennai 600 003.

2.The Assistant Commissioner (ST),
Manali Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

3.The Branch Manager,
HDFC Bank,
No.754, Thiruvottiyur High Road,
Thiruvottiyur, Chennai 600 019.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the 1st respondent in GSTIN 33CCNPK6533M1Z6/2021-22 dated 20.10.2023 and the connected order passed under Section 74 and the summary of the order dated 20.10.2023 in Form GST DRC-07 in Ref.No.ZD331023126623Y and quash the impugned orders as passed contrary to the provisions of GST Act, 2017 and also against the principles of natural justice.

For Petitioner	:	Mr.P.Rajkumar
For Respondent	:	Ms.K.Vasanthamala, Government Advocate for R1 & R2

ORDER

This writ petition has been filed challenging the impugned order dated 20.10.2023 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, 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 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. Further, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

4. On the other hand, the learned Government Advocate appearing for the respondents 1 and 2 would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she 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 respondents 1 and 2 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 order dated 20.10.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 20.10.2023 is set aside and the matter is remanded to the 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 (02.09.2024) 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 three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 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 3rd respondent is directed to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

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

02.09.2024

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

To

1.The Deputy State Tax Officer,
Manali Assessment Circle,
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2.The Assistant Commissioner (ST),
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KRISHNAN RAMASAMY.J.,

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