IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25070 of 2024 &
W.M.P.Nos.27396 and 27397 of 2024

M/s.Sri Bala Builders & Promotors (Pvt) Ltd.,
Rep. by its Director G.Jayaraman,
4C-2, J.P.Greenland Apartment,
5th Street, Nandanam Extn,
Chennai- 600035. ... Petitioner

Vs.

1. The State rep by its
   Deputy State Tax Officer (ST)
   Kotturpuram Assessment Circle
   Nandanam, Chennai.

2. The Assistant Commissioner (ST)
   Kotturpuram Assessment Circle
   2nd floor, integrated commercial taxes &
   registration buildings
   Nandanam, Chennai-35.

3. The branch Manager
   Axis Bank,
   Door No.31(14) South Madha Street
   Mylapore, Chennai.

4. Appellate Deputy Commissioner (ST)(GST) Appeals II
Greens Road, Chennai-6. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent made in GSTIN/33AAVCS6714K1ZS/2017-18 dated 30.12.2023 and consequential proceedings issued by the 2nd respondent made in GSTIN/33AAVCS6714K1ZS/Arr dated 07.06.2024 and quash both and consequently direct the respondents to remove the order of attachment attaching the Petitioner's bank account holding in Account No.912020066153221without any interruption and quash the same.

For Petitioner : Ms.Selvi George

For Respondents : Mr.J.N.C.Kaushik
Addl. Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order of the 1st respondent dated 30.12.2023 and consequential proceedings issued by the 2nd respondent dated 07.06.2024 and quash both and consequently direct the respondents to remove the order of attachment attaching the Petitioner's bank account holding in Account No.912020066153221without any interruption and quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the Respondents.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that the Petitioner herein is the builder/promotor, registered under the Tamil Nadu Goods and Services Act. In the present case initially a Show Cause Notice was issued by the 1st Respondent on 20.09.2023 and the same was uploaded in the GST Portal. Since the Petitioner's accountant who was looking after the affairs of the Company left the job, the Petitioner was not aware of the same and hence failed to file the reply in time. Thereafter the impugned order dated 30.12.2023 was passed by the 1st Respondent. Subsequently, the 2nd Respondent passed an order of

attachment dated 07.06.2024 and only thereafter the Petitioner came to know about the show cause notice as well as impugned assessment order.

5.Further, he would submit that during the course of the business, the Petitioner undertook to construct a school building to Mr.Srinivasa Rao in Perungudi, Chennai and also completed the said construction and handedover the possession to the owner, but they failed to settle the bills to the petitioner and in this regard civil proceedings are pending before this Court in O.S.A.No.30 of 2024 on the file of this Court and therefore the Petitioner is not liable to pay the GST. He further submitted that the impugned order dated 30.12.2023 was passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and he prays to set aside the same.

6. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondents uploaded the show cause

notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed and prays for appropriate orders.

7. . Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondents and also perused the materials available on record.

8. In the present case, since the show cause notice was uploaded in the GST Portal and also as the petitioner's accountant left the job, they are not aware of the same and therefore filed to submit reply for the said show cause notice.

9. Further, it appears that there is dispute between the petitioner/ builder and the owner and in this regard the proceedings are also pending before this Court. That apart, 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 is passed

in violation of principles of natural justice and 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 30.12.2023 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 30.12.2023 is set aside and the matter is remanded to the 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 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 dated 30.12.2023 itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner on 07.06.2024 cannot survive any longer and hence, it is lifted. As a sequel, the 2nd Respondent is directed to release the attachment on the bank account of the petitioner.

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

03.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

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