IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25166 of 2024 &
W.M.P.Nos.27480, 27482 and 27483 of 2024

Sri Vinayaka Screen & Offset Printers,
Represented by its Proprietor:Mr.Loganathan
No.3/8, Ponniamman Koil Street, Pallavaram
Kancheepuram,
Tamil Nadu-600043. ... Petitioner

Vs.

1. The Commercial Tax Officer,
Pallavaram:Tambaram:Chengalpattu
Integrated Registration Commercial Taxes
Building, III Floor, Room No.345,
Nandanam, Chennai- 600 035.

2. The Deputy Commissioner (ST)(FAC),
Tambaram Zone,
Room No.422, 4th Floor, Commercial Tax Offices
PAPJM Building, No.1, Greams Road,
Chennai- 600 006.

3. The Bank Manager,
CANARA BANK,
No.25, I-Floor, Old Trunk Road,
Pallavaram,
Chennai- 600 043. ... 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 in Reference Number:ZD331223137115Y/2017-18 dated 19/12/2023 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 2nd and 3rd Respondents to defreeze the bank account namely the current account No.00910261010261/PAN:AAQHS2388F of the Petitioner-Registered Taxable person.

For Petitioner : Mr.S.Ramanan

For Respondents : Mr.G.Nanmaran (R1 and R2)
Special Government Pleader (Taxes)

O R D E R

This writ petition has been filed by the petitioner challenging the order dated 19/12/2023 passed by the 1st respondent and quash the same as contrary to law, consequently direct the 2nd and 3rd Respondents to defreeze the bank account namely the current account No.00910261010261/PAN:AAQHS2388F of the Petitioner.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondents 1 and 2.

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 in the present case the 1st respondent has issued a show cause notice dated 27.09.2023 followed by reminders dated 16.11.2023 and 23.11.2023 and the same were uploaded in the GST Portal. Since the Petitioner was not aware of the same, they failed to file reply and subsequently impugned assessment order dated 19.12.2023 came to be passed, demanding tax along with interest and penalty. The Petitioner came to know of the aforesaid notice and assessment order only receipt of the bank attachment notice dated 06.06.2024. He further submitted that the impugned order was passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice. Hence he prays to set aside the same.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondents issued Show Cause Notice

followed by reminder notices dated 16.11.2023 and 23.11.2023. But the petitioner failed to submit reply and therefore the impugned assessment order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondents 1 and 2 and also perused the materials available on record.

8. 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 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, since the reasons assigned by the petitioner, for non-filing of reply, are appears to be genuine, this Court is inclined to set aside the impugned order dated 19.12.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 19.12.2023 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 to the respondents within a period of ***four weeks*** from the date of receipt of a copy of this order 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 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 assessment order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner vide notice dated 06.06.2024 cannot survive any longer and hence, it is lifted. As a sequel, the Respondents 2 and 3 are directed to release the attachment on 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.

9. 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
arr

To

1. The Commercial Tax Officer,
   Pallavaram:Tambaram:Chengalpattu
   Integrated Registration Commercial Taxes
   Building, III Floor, Room No.345,
   Nandanam, Chennai- 600 035.

2. The Deputy Commissioner (ST)(FAC),
   Tambaram Zone,
   Room No.422, 4th Floor, Commercial Tax Offices
   PAPJM Building, No.1, Greams Road,
   Chennai- 600 006.

3. The Bank Manager,
   CANARA BANK,
   No.25, I-Floor, Old Trunk Road,
   Pallavaram,
   Chennai- 600 043.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.25166 of 2024 &
W.M.P.Nos.27480, 27482 and
27483 of 2024

03.09.2024