IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24899 of 2024
& W.M.P.Nos.27247 & 27248 of 2024

Tvl.Modular Building Systems,
Rep by its Partner Mr.Antonystalin,
Plot No.1, Door No.1/221,
Mudichur Main Road,
Lakshmi Nagar, Chennai 600 048.

... Petitioner

Vs.

1.The Deputy State Tax Officer,
Tambaram Assessment Circle,
Nandanam, Chennai 35.

2.The Branch Manager,
Axis Bank,
Valluvar Gurukulam H.S.School,
No.220, GST Road, Tambaram,
Chennai 600 045.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent proceedings in GSTIN: 33BBIPA5469D1ZY dated

25.04.2024 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner	:	Mr.D.Vijayakumar
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader, for R1

ORDER

This writ petition has been filed challenging the impugned order dated 25.04.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the 1st respondent. 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 in the present case, the 1st respondent had upoaded the show cause notice on 27.12.2023 and thereafter, the reminder notice was also uploaded by the respondent on 01.03.2024. For the said notices, the replies were filed by the petitioner on 26.01.2024 and 20.03.2024 respectively. Thereafter, the

impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Subsequently, out of the total tax liabilities, the respondent has recovered around a sum of Rs.12 Lakhs vide bank attachment.

4. Further, he would submit that Section 75(4) of the Goods and Services Tax Act, 2017, (hereinafter called as "GST Act"), mandates that an opportunity of hearing should be granted if the respondent intends to pass an adverse order against the petitioner. When such being the case, contrary to the provisions of aforesaid Section, the impugned order has been passed by the respondent and hence, he requests this Court to set aside the said impugned order.

5. On the other hand, the learned Additional Government Pleader appearing for the 1st respondent had also confirmed that the respondent has uploaded the notices in the GST Online Portal, for which, the petitioner filed their replies on 26.01.2024 and 20.03.2024. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, he

requests this Court to pass appropriate order to remit the matter back to the 1st respondent for re-consideration.

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 appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order, which is contrary to the provisions of Section 75(4) of the GST Act, wherein it has been stated that it is the bounded duty of the Authority concerned to provide an opportunity of personal hearing to the Assessee in the event of passing any adverse 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. Further, it was submitted by the learned counsel for the petitioner that the 1st respondent has already recovered around a sum of Rs.12 Lakhs vide bank attachment. In such view of the matter, this Court is inclined to set aside

the impugned order dated 25.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 25.04.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(ii) The 1st respondent is directed to consider the replies dated 26.01.2024 and 20.03.2024 filed by the petitioner 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.

(iii) Considering the fact that the impugned order itself has 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 2nd respondent is directed to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

8. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

29.08.2024

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

Note: *Issue order copy on 30.08.2024.*
To

The Deputy State Tax Officer,
Tambaram Assessment Circle,
Nandanam, Chennai 35.

KRISHNAN RAMASAMY.J.,

nsa

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