IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25788 of 2024
& W.M.P.Nos.28163 to 28165 of 2024

Mr.Sumith Kumar Sanghavi,
Proprietor,
M/s.Sanghavi Metals,
No.9, Mooker Nallamuthu Street,
Parrys, Chennai 600 001

... Petitioner

Vs.

1.The Deputy State Tax Officer – I/ Deputy Commercial Tax Officer,
Loan Square Assessment Circle,
Loan Square Chennai – I,
Integrated Commercial Tax Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

2.The Branch Manager,
City Union Bank,
No.23, Pillayar Koil Street,
Near Tiruvateeswarar Temple,
Ellis Puram, Padupakkam, Triplicane,
Chennai 600 005.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order on the file of 1st respondent in impugned Assessment order in GSTIN 33BNFPS3012M1ZO/2017-18 dated 27.12.2023 passed for the FY 2017-18 and quash the same and consequently, direct the 1st respondent to refund the amount debited from the petitioner's accounts and further consequently, de freeze the petitioner's bank accounts bearing Current Account No.038109000001967 and Savings Account No.038001000007001.

For Petitioner : Mr.R.Ananth

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

ORDER

This writ petition has been filed challenging the impugned order dated 27.12.2023 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 the 1st respondent had issued detailed notice dated 31.08.2023 and Form GST DRC 01 dated 26.09.2023 to the petitioner, for which, a detailed reply was filed by the petitioner on 15.10.2023. Thereafter, though an opportunity of personal hearing was provided to the petitioner, he was unable to appear before the respondent. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, he requests this Court to grant an opportunity to establish their case before the respondent.

4. Further, he would submit that the respondents has already recovered a sum of Rs.66,523/- out of the total tax liability of Rs.74,854/- from the petitioner and hence, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

5. On the other hand, the learned Additional Government Pleader appearing for the 1st respondent would submit that the 1st 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.

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 case on hand, it is clear that though an opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order, the petitioner was unable to appear before the 1st respondent. Further, it was submitted by the petitioner that subsequent to the passing of impugned order, the 1st respondent had recovered a sum of Rs.66,523/- out of the total tax liability of Rs.74,854/- from the

petitioner. Hence, this Court is of the view that 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 27.12.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.12.2023 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(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 1st 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 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.

19.10.2024

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

To

The Deputy State Tax Officer – I/ Deputy Commercial Tax Officer,
Loan Square Assessment Circle,
Loan Square Chennai – I,
Integrated Commercial Tax Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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