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.25670 of 2024
W.M.P.No.28038 and 28039 of 2024

Tvl. Ronald Leeman Commodities
(Represented by its Partner B.Yuvraj)
No.317/8, Muthandikuppam Road,
Panruti-607103. ... Petitioner

Vs.

1. State Tax Officer, Inspection-I,
Commercial Taxes Building, Cuddalore
Intelligence Division,
No.1, Vallaar nagar, Cuddalore-607 001.

2. State Tax Officer,
Panruti Rural Assessment Circle,
No.1, Vallaar Nagar, Cuddalore- 607 001.

3. The Branch Manager,
Indian Bank,
P B No.1715, Kumbakonam Road
Panruti, Cuddalore 607 106. ... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned orders bearing GSTIN33AASFR1418B1Z1/2020-21, dated 05.01.2024 passed by the first Respondent and quash the same and subsequently direct the second Respondent to lift the bank attachment made vide letters dated GSTIN:33AASFR1418B1Z1/2023-24 dated 09.08.2024 as the same being arbitrary, passed in violation of the principles of natural justice.

For Petitioner : Mr.K.Anand

For Respondents : Mr.C.Harsha Raj
Addl. Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the orders of the first respondent dated 05.01.2024 and for a direction to the 2nd Respondent to lift the bank attachment made vide letter dated 09.08.2024.

2. Mr.C.Harsha Raj, 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 in the present case, initially, the respondent has issued show cause notice dated 03.10.2023 to the petitioner and the same were uploaded in the GST portal. Since the Petitioner's consultant who was handling the GST related works was unwell at that point of time, the Petitioner was not aware of the said notice and therefore they had failed to file their reply within the time. Under these circumstances, the impugned order dated 05.01.2024 came to be passed by the 1st Respondent demanding tax along with penalty and interest for the Assessment Year 2020-2021 and the same were also uploaded in the GST Portal. The Petitioner came to know of the said notice as well as impugned order only on 18.01.2024 when they went to the Respondent-Department for other reasons. He further submitted that the Petitioner filed rectification petition, against the impugned order and pending the same, the 2nd Respondent vide

letter dated 09.08.2024 attached the Petitioner's bank account and therefore the Petitioner has come forward with this Writ Petition.

5.Further, he would submit that the impugned order was passed without affording an opportunity of hearing to the Petitioner and therefore the same are in violation of the principles of natural justice and hence prays to set aside the same. He further submitted that the Petitioner has already paid the tax amount of Rs.10,15,226/- and agreed to deposit the tax amount of Rs.1,00,000/- before the Respondents.

6. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondents uploaded the show cause notices in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed. However, he fairly submitted that the Petitioner has already remitted a sum of Rs.7,49,381/- and stated no objection for setting the impugned order, with a direction to the Petitioner to deposit a sum of Rs.1,00,000/- towards the disputed tax amount.

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 as the Petitioner was unaware of the same, they were not in a position to file reply for the said show cause notice. That apart, 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 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 05.01.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 05.01.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,00,000/- 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 orders itself have been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner on 09.08.2024 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, immediately upon the production of copy of this order, along with the proof of payment of the aforesaid sum of Rs.1,00,000/-.

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

03.09.2024
(3/4)

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

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