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.Nos.25694, 25673 and 25678 of 2024
W.M.P.Nos.28077, 28078, 28043. 28044, 28051 and 28052 of 2024

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

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 in all W.P.'s

Prayer in all W.P.'s: 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 GSTIN33AASFR1418B1Z1/2017-18, GSTIN33AASFR1418B1Z1/2018-19, GSTIN33AASFR1418B1Z1/2022-23, 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
(in all W.P.'s)
For Respondents : Mr.C.Harsha Raj
(in all W.P.'s) Addl. Government Pleader (Taxes)

COMMON ORDER

Since the issue involved and the relief sought for in all these Writ Petitions are one and the same, they are taken up together and disposed of by a common order.

2. These writ petitions have 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 letters 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 petitions are 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 notices 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 notices and therefore they had failed to file their reply within the time. Under these circumstances, the impugned orders dated 05.01.2024 came to be passed by the 1st Respondent demanding tax along with penalty and interest for the Assessment Years 2017-2018,

2018-2019 and 2022-2023 and the same were also uploaded in the GST Portal. The Petitioner came to know of the said notices as well as impugned orders only on 18.01.2024 when they went to the Respondent-Department for other reasons. He further submitted that the Petitioner filed rectification petitions, against the impugned orders 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 these Writ Petitions.

5.Further, he would submit that the impugned orders were 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 entire tax liability has already been paid by the Petitioner.

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 orders came to be passed. He fairly submitted that entire tax liability has already been paid by the Petitioner.

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 notices were 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.

9. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were 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 orders dated 05.01.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein is set aside.

(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 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.

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

03.09.2024
(1/4)

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

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