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W.P.No.26269 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

**W.P.No.26269 of 2024 &
W.M.P.Nos.28697 to 28699 of 2024**

Tvl.Mohanasundaram Senthilvelu,
Proprietor of Tamilnaddu Machine Works,
1/1-25 A1, Elikaradu, Bhavani Main Road,
Mettur, Salem, Tamil Nadu - 636 452.
GSTIN:33ANDPS1091F1Z7

... Petitioner

Vs.

1.The State Tax Officer,
O/o. the Commercial Tax Officer,
Mettur Assessment Circle, Mettur.

2.The Assistant Commissioner (ST),
Mettur Assessment Circle,
Raman Nagar, Mettur - 636 403.

3.The Branch Manager,
Laxmi Villas Bank Ltd., (presently DBS Bank Limited),
8 by 13 Square Market Road,
1st Floor, Mettur Dam,
Salem - 636 401.

... 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 on the files of the impugned proceedings of the first respondent vide impugned order in GSTIN 33ANDPS1091F1Z7/2018-19, dated 26.04.2024 and the consequential order under Section 73 with Ref.No.ZD330424226352T, dated



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28.08.2024 for the period 2018-19, quash the same and further direct the second respondent to lift the bank attachment by withdrawing the bank attachment notice in Letter with GSTIN:33ANDPS1091F1Z7/2024/A3, dated 09.08.2024 along with Form GST DRC-13 to the third respondent Bank.

For Petitioner : M/s.R.Hemalatha

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice for the respondents.

2. By consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The learned counsel submits that the proceedings initiated under Section 61 of the CGST Act, 2017, for the Financial Year 2018-2019, resulted in a Show Cause Notice (SCN) dated 22.12.2021, for excess Input Tax Credit (ITC) of Rs.4,82,703/- in both SGST and CGST. A subsequent Demand Notice under Section 73, issued on 28.02.2022, was followed by a Reminder Notice in November 2023, which contained an incorrect reference number. Despite the 1st respondent's system-generated Order dropping the assessment on



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28.04.2024, another Form GST ASMT-12 was issued on 15.08.2024, accepting the petitioner's reply. The learned counsel argues that issuing a Bank Attachment Notice based on dropped proceedings is illegal and in violation of Section 75(6) of the CGST Act, as the respondent failed to properly set out the facts, making the proceedings contrary to natural justice and time-barred.

4. The learned counsel would further submit that the intimations and notices were uploaded in the 'Additional Notices' tab instead of the 'Notices' tab, and the petitioner, lacking computer knowledge, had entrusted this duty to a local tax consultant who, due to poor health, failed to notice the same. She further contends that the petitioner, having only discovered the notices belatedly, submitted a reply explaining that the mismatch was due to the supplier belatedly filing monthly returns, paying tax under B2C instead of B2B, which was verified through a letter from the supplier and copies of the monthly returns. However, the belated reply was not considered. Thus, the impugned order was passed without giving the Petitioner an opportunity to submit oral or written submissions, violating the principles of natural justice. The learned counsel submits that the petitioner is now ready and willing to pay 10% of the demand made by the respondent if given an opportunity to



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file a reply/objections along with the necessary documents to substantiate their claim.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondents uploaded the notice for personal hearing in the GST Online Portal. But, the petitioner failed to avail the said opportunity. Yet, the learned Additional Government Pleader has no objection for granting relief to the petitioner, subject to certain terms.

6. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay a 10% of demand to the respondent(s) within a period of four weeks from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.



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(ii) On such payment, the second respondent is directed to lift the attachment on the bank account of the petitioner with immediate effect.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

7. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

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

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