IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.09.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.26871 of 2024
and
W.M.P.No.29393 of 2024

M/s. Andavar Traders
rep. by its Proprietor Sri.S.K.Venugopal,
600/A/23/LPNV Complex,
Athur – 636 141. ...Petitioner

Vs.

The State Tax Officer (FAC)
Athur Town Circle, Athur. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the respondent in TIN : 33433141103/2016-17 and to quash the proceedings dated 05.07.2024 and to direct the respondent to refund the tax collected from the bank of the petitioner.

For Petitioner : Mr.B.Raveendran

For Respondent : Ms.Amirta Poonkondi Dinakaran
Government Advocate (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 05.07.2024 passed by the respondent and to quash the same and consequently, to direct the respondent to refund the tax collected from the bank of the petitioner.

3. Mr.B.Raveendran, learned counsel for the petitioner would submit that initially, a show cause notice was issued to the petitioner on 20.12.2022, which culminated in the assessment order dated 12.10.2023, and challenging the said assessment order, the petitioner filed a Writ Petition in W.P.No.5417 of 2024 seeking to set aside the said assessment order dated 12.10.2023 and in the said Writ Petition, the petitioner has also sought for early disposal of the Rectification Application filed by the petitioner dated 19.01.2024, and this Court vide order dated 04.03.2024, disposed of the said Writ Petition by directing the respondent, who is also the respondent herein to dispose of the said Rectification Petition after affording an opportunity of the personal hearing to the petitioner.

3.1 The learned counsel further submitted that pursuant to the aforesaid order dated 04.03.2024 passed in the Writ Petition, referred to supra, opportunity of personal hearing was granted to the petitioner to file reply, however, the grievance of the petitioner is that, the submissions made by the petitioner during the personal hearing was not properly appreciated by the respondent, and without going through the reply filed by the petitioner in a proper perspective, the impugned order came to be passed. Therefore, the learned counsel seeks for setting aside the same.

4. Ms.Amirta Poonkondi Dinakaran, learned Government Advocate (T) , who takes notice on behalf of the respondent submitted that only after considering the reply filed by the petitioner and hearing the petitioner in full and on perusal of documents produced by the petitioner at the time of personal hearing, the impugned order came to be passed, if at all, the petitioner is aggrieved over such order, the petitioner has an alternate remedy of filing appeal before the Appellate Authority, and hence, sought for dismissal of the Writ Petition.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of the records, it is seen that, initially, an assessment order was passed by the respondent herein on 12.10.2023, and challenging the said assessment order, the petitioner filed a Writ Petition before this Court in W.P.No.5417 of 2024 seeking to set aside the same and in the said Writ Petition, the petitioner has also sought for early disposal of the Rectification Application filed by the petitioner dated 19.01.2024, and this Court vide order dated 04.03.2024, disposed of the said Writ Petition by directing the respondent, who is also the respondent herein to dispose of the said Rectification Petition after affording an opportunity of the personal hearing to the petitioner. For better appreciation, the operative portion of the order dated 04.03.2024 is extracted hereunder:-

> " Hence, W.P.No.5417 of 2024 is disposed of by directing the respondent to consider and dispose of the

rectification petition dated19.01.2024 within a maximum period of two months from the date of receipt of a copy of this order. A reasonable opportunity, including a personal hearing, shall be provided to the petitioner before the disposal of such rectification petition. It is needless to say that if the contention of the petitioner that the goods are exempted is accepted and any refund is due and payable to the petitioner as a result thereof, such refund shall be made within a reasonable time. For the avoidance of doubt, it is clarified that the petitioner shall be permitted to operate his bank account in the Lakshmi Vilas Bank, Athur, which is currently DBS Bank Limited, since the attachment order has worked itself out. No costs. Consequently, W.M.P.No.5979 of 2024 is closed "

6.1 Thus, in pursuance to the aforesaid order dated 04.03.2024 the petitioner was granted an opportunity to file reply and afforded a personal hearing. However, now the grievance of the petitioner is that, the submissions made by the petitioner during the personal hearing was not appreciated by the respondent in a proper perspective. However, this Court cannot interfere with by the impugned order, since the High Court can interfere only with legality of the procedure and not with the validity of the order, in view of the ratio laid down by the Hon'ble Supreme Court in the decision rendered in **Jyotendrasinhji Vs. S.L.Tripathi, (**referred to supra).

7. In the light of the above, this Writ Petition is dismissed. However, liberty is granted to the petitioner to challenge the the Order dated 05.07.2024 by way of an Appeal before the Appellate Authority in the manner known to law within a period of 30 days from the date of receipt of a copy of this order, if he is so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

11.09.2024

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer (FAC)
Athur Town Circle, Athur.

Krishnan Ramasamy,J.,

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W.P.No.26871 of 2024

11.09.2024