IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27896 of 2024
& W.M.P.Nos.30426, 30429, 30749, 30764 & 30765 of 2024

Tvl.Supreme Industrial Co.
Rep by its Proprietor Saifuddin Huzefa,
S/o.Saifuddin.T,
No.118, Linghi Chetty Street,
Parrys, Chennai 600 001

... Petitioner

Vs.

1.The State Tax Officer,
Harbour Assessment Circle,
No.327, 3rd Floor,
Integrated Commercial Taxes Building,
Vepery, Chennai 600 003.

2.The Assistant Commissioner (ST),
Harbour Assessment Circle,
No.327, 3rd Floor,
Integrated Commercial Taxes Building,
Vepery, Chennai 600 003.

3.The Branch Manager,
IDBI Bank, Sri Kanyaka,
Parameswari Arts and Science College for Women,
No.1, Audiappa Naicken Street,
Chennai 600 001

4.The Branch Manager,
Punjab National Bank,
158, Linghi Chetti Street,
Chennai

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice vide Ref.No.ZD330623055741J dated 14.06.2023 and impugned order vide Ref.No.ZD330424221673O dated 27.04.2024 under Section 73 of TNGST/CGST Act, 2017 passed by 1st respondent and quash the same being illegal, void ab-initio, against the principles of natural justice and without jurisdiction.

For Petitioner	:	Mr.Thyagarajan K
For Respondent	:	Mr.G.Nanmaran, Special Government Pleader for R1 and R2

ORDER

This writ petition has been filed challenging the impugned notice dated 14.06.2023 and the impugned order dated 27.04.2024 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, takes notice on behalf of the respondents 1 and 2. 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 all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed. Further, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

4. On the other hand, the learned Special Government Pleader appearing for the respondents 1 and 2 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, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2 and also perused the materials available on record.

6. In the case on hand, it is clear 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 since 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 27.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 27.04.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration, subject to the payment of a sum of Rs.10,000/- by the petitioner to The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of two weeks from the date of receipt of 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 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 3rd and 4th respondents are directed to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of a sum of Rs.10,000/- by the petitioner as stated above.

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

26.09.2024

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

To

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