IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27912 of 2024 &

W.M.P.Nos.30438 & 30440 of 2024

M/s.Ever Bright Industries,
Rep. by its Proprietor Syed Kaleem,
No.72-B, Sydenhams Road, East Side,
Parrys, Chennai - 600 003. ... Petitioner

Vs.

1.The Assistant Commissioner [ST],
Moore Market, North II, Chennai North,
Moore Market Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.226, 2nd Floor,
No.32, Elephant Gage Bridge Road,
Chennai – 600 003.

2.The Deputy State Tax Officer,
Moore Market, North II, Chennai North,
Moore Market Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
No.32, Elephant Gage Bridge Road,
Chennai – 600 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned summary of Order of the first respondent in Form GST DRC – 07 bearing reference No.ZD3302240897291 dated 15.02.2024 and consequential impugned Order of the first respondent in reference No.ZD330624271604F dated 24.06.2024 and quash the same and consequently direct the first respondent to entertain the records, documents and reply from the petitioner and then pass Order after affording a personal hearing to the petitioner.

For Petitioner : Ms.Rukmani Venugopalan

For Respondents : Mrs.K.Vasanthamala,
Government Advocate [T]

ORDER

Challenging the No.ZD3302240897291 dated 15.02.2024 and consequential impugned Order of the first respondent in reference No.ZD330624271604F dated 24.06.2024 and for consequential direction to the first respondent to pass appropriate Order after affording opportunity to the petitioner, the present writ petition has been filed.

2. According to the petitioner, they are registered dealer under the GST Act and they are trader of Garments, Woven Fabrics, Packing Cass, Boxes and allied products. They are regularly filing the monthly returns and paying taxes due to the department. While so, respondents have passed two separate assement Orders on 15.02.2024 and 30.01.2024 without affording any personal hearing and without receiving any objections from the petitioner. Since, there were two assessment Orders, the petitioner made an application for rectification on 27.04.2024 to the first respondent to rectify the same. While the said rectification petition is pending, the first respondent passed the impugned Order and a sum of Rs.7,91,516/- has been debited from the bank account of the petitioner. All the notices and Orders were uploaded in the 'View Additional Notices and Orders' column. Aggrieved by the same, the petitioner is before this court with the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that before passing the orders impugned herein, the petitioner was not provided reasonable opportunity to submit their oral and written submissions and to file documents to substantiate their claims. Thus, according to the learned counsel, the orders impugned herein are arbitrary, illegal and in violation of the principles of natural justice. The learned counsel further submitted that the petitioner was unable to file their reply for the reason that the accountant, who had an access to portal as well who knows the password, failed to bring them about the notices issued by the department.

5. On the other hand, the learned Government Advocate appearing for the respondents submitted that after analysing the facts and circumstances of the case, the respondent authorities have passed the orders impugned herein.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent authorities in passing the orders impugned herein and a sum of Rs.7,91,516/- has been debited from the bank account of the petitioner, 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.
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date or receipt of a copy of this Order.
>
> (iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

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

vrc

To

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KRISHNAN RAMASAMY, J.

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