IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29202 of 2024 &
W.M.P.Nos.31888 of 2024 & 31889 of 2024

M/s.Universal Print Forms
Represented by its Proprietrix
Smt.C.Gowri
GSTIN 33BDSPG6022N1ZA
82/1, Kamdhenu Nagar
Coimbatore 641 006. ... Petitioner

Vs.

1. The Assistant Commissioner (ST)(FAC)
Ganapathy Circle
Commercial Taxes Building
Dr.Balachandram Chettiar Road
Coimbatore 641 018.

2. The Branch Manager
Canara Bank (Syndicate Bank)
220, Dr.Rajdendra Prasad Road
100, feet Road, Tatabad,
Coimbatore- 641 012. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order ref:GSTIN/33BDSPG6022N1ZA/2018-19 dated 17.04.2024 along with summary order in Form DRC-07 ref No.ZD330424137911L dated 17.04.2024 passed by the 1st Respondent and quash the same as the same being arbitrary and subsequently lift the bank attachment made by the 1st respondent.

For Petitioner : Mr.Sanjay Nikaash
for Mr.G.Natarajan
For Respondents : Ms.AmirthaPoonkodi Dinakaran (R1)
Government Advocate (Taxes)

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O R D E R

This writ petition has been filed by the petitioner challenging the order dated 17.04.2024 along with summary order dated 17.04.2024 passed by the 1st respondent and to quash the same.

2. Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the 1st respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submits that initially show cause notice dated 20.09.2023 was issued against the Petitioner and since the same was uploaded in the GST portal, they are unware of the same and

thus, failed to file their reply to the show cause notice in time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order dated 17.04.2024 and the same was also uploaded in the GST Portal. Subsequently, the 1st Respondent initiated recovery proceedings against the Petitioner vide letter dated 06.08.2024 and the Petitioner's bank account was attached. The said fact was informed by the 2nd Respondent to the Petitioner and only thereafter the petitioner came to know of the impugned proceedings.

5. Further, he would submit that the impugned order was passed without affording an opportunity of hearing to the petitioner and therefore the same is is violation of principles of natural justice. He further submitted that disputed tax has already been recovered by the 1st Respondent and prays to allow this Petition.

6. On the other hand, the learned Government Advocate (Taxes) would submit that the 1st respondent uploaded the show cause notice followed by two reminders in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed. However, he fairly agreed that the disputed tax has already been recovered from the Petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and also perused the materials available on record.

8. In the present case, it appears 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 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 order dated 17.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The order 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 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 2nd respondent is directed to release the attachment on the bank account of the petitioner.

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

04.10.2024

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

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