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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29648 of 2024
and
W.M.P.Nos.32297, 32301, 32302, 32304 of 2024

M/s.Sri Sellandiamman Traders,
Represented by its Proprietor,
Mr.S.Balamurugan,
Old No.81, New No.75, Thirumangalam,
Periyamettuthottam, Vellakovil,
Tiruppur 638 111. ...Petitioner

Vs.

1. The Deputy State Tax Officer-I,
 Vellakovil Assessment Circle,
 Kangeyam, Tiruppur.
2. The Assistant Commissioner (State Tax),
Vellakovil Assessment Circle,
No. 7/20, Tiruppur Road,
Kangeyam (Post), Tiruppur District.
3. The Bank Manager,
Canara Bank,
SME Branch, Karur 639 001.

4. M/s.ShreeVisaka Spinners,

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No.1454/1, Veppangadu,
Vellakovil 638 011.
5. M/s.Visaka Textiles
No.18/705,Kongu Nagar,
Vellakovil 638 111. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the impugned proceedings of the first respondent passed in GSTIN: 33BBPPB0887F1ZQ/2018-2019 dated 30.04.2024 and the connected order under section 73 and the summary of the order in Form GST DRC-07 dated 30.04.2024 issued in Reference No. ZD3304242599239 and quash the impugned proceedings as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 and also passed in contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar
For Respondents 1 & 2: Ms.Amirtapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned orders dated 30.04.2024 passed by the first respondent.

2. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the respondents 1 and 2.

3. By consent of the parties, the main Writ Petition is taken up for

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disposal at the admission stage itself.

4. The learned counsel for the petitioner submitted that, a show cause notice in Form GST DRC-01 dated 27.12.2023 raised on the petitioner's GST portal under the head "View Additional Notices and Orders" tab, as the petitioner's consultant was unaware of the GST portal, the petitioner failed to reply for the said show cause notice, which led to the passing of the present impugned order. He submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. The petitioner came to know about the impugned proceedings, when an attachment order passed by the second respondent vide proceedings dated 06.08.2024, and thereby the petitioner's Bank account has been attached. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings. It is also submitted that, if an opportunity is provided, the petitioner would be able to substantiate his case and also the petitioner agrees to make a payment of 10% of the disputed tax in respect of the impugned assessment period.

5. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes) appearing for the respondents 1 & 2 submitted that subject to the

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payment of 10% of the disputed tax in respect of the impugned assessment period, this Court may remand the matter to the Authority concerned for passing appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) for the respondents 1 & 2 and perused the materials available on record.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was unaware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

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8. For the reasons stated above, this Court is inclined to set aside the impugned orders dated 30.04.2024 passed by the first respondent with the following directions:-

(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 the disputed tax in respect of the impugned assessment period within a period of four weeks from the date of receipt of a 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 two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for 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 orders 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. The third respondent is directed to de-freeze the Bank account of the petitioner immediately upon the production of a copy of this order and proof for

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payment of 10% of the disputed tax as ordered by this Court, in case the petitioner's Bank account is attached.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

17.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
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Kangeyam, Tiruppur.
2. The Assistant Commissioner (State Tax),
Vellakovil Assessment Circle,
No. 7/20, Tiruppur Road,
Kangeyam (Post), Tiruppur District.

Krishnan Ramasamy,J.,
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3. The Bank Manager,
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