IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2024

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29110 of 2024
and
W.M.P.No.31777, 31779 & 31781 of 2024

M/s. Tinkas Industries Pvt. Ltd.,
Rep.by its Managing Director, P.Thangavel ...Petitioner

Vs.

1. The Commercial Tax Officer (ST)
Integrated Commercial Taxes &
Registration Department Buildings,
Thiruvanmiyur Circle, South III,
Chennai – 600 035.

2. The Assistant Commissioner (ST)
Thiruvanmiyur Assessment Circle,
Integrated Commercial Taxes &
Registration Department Buildings,
Room No.242, 2nd Floor
Nandanam, Chennai – 600 035.

3. The Branch Manager,
HDFC Bank, No.27, MGR Main Road,
Kandanchavadi, Perungudi,
Chennai – 600 096. ...Respondents

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 first respondent vide the impugned ex parte order issued in Ref No.ZD330524000087W dated 01.05.2024 in GST DRC-07 and to quash the same and further, to direct the second respondent to communicate to the third respondent to de-freeze the debit on all the accounts maintained by the petitioner with the third respondent in Account No.07952000002376 and PAN No.AAACO3114G, AAEPTO257C, AACPL2902Q, ABSPK9269Q & ADBPN7277L as the same is devoid of merits and violative of principles of natural justice.

For Petitioner : Mr.M.Karthikeyan

For Respondent-1 : Mr.G.Nanmaran
Special Government Pleader

Order

This Writ Petition is filed challenging the order passed by the first respondent dated 01.05.2024 and to quash the same and further, to direct the second respondent to communicate to the third respondent to de-freeze the debit on all the accounts maintained by the petitioner with the third respondent.

2. Mr.M.Karthikeyan, learned counsel appearing for the petitioner would submit that all the notices/communications, which culminated in the impugned order were merely uploaded in the GST Portal under the column, "View Additional notices/Orders", instead of uploading the same in the usual column, viz., Notices/Orders", hence, the petitioner was not aware of those notices and failed to file reply to those notices, however, the first respondent, without giving any opportunity of personal hearing to the petitioner, confirmed the proposals contained in the show cause notice and passed the present impugned order.

2.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and liable to be aside. Further, it is submitted that the demand relates to the payment of interest towards the delay in filing the GSTR-3B and that the petitioner has already paid a sum of Rs.16,18,632/- towards interest, therefore, prays for setting aside the impugned order.

3. Mr.G.Nanmaran, learned Special Government Pleader for the respondents fairly submitted that since the petitioner has already paid a sum of Rs.16,18,632/- towards interest, the prayer sought for by the petitioner may be considered, if the Court feels it as deems fit.

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

5. On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications, which culminated in the impugned order directly through physical mode of service and made it available only in the GST Portal under the "View of additional notices and orders' column, which, the petitioner was not aware and ultimately, the impugned order came to be passed against the petitioner without even affording any opportunity of hearing to the petitioner, which is in total violation of principles of natural justice. Therefore, this Court is inclined to set aside the impugned order.

6. Accordingly, this Court passes the following orders/directions:-

i) The impugned order dated 01.05.2024 is set aside and the matter is remanded back to the first respondent for fresh consideration.

ii) The petitioner is directed to file reply along with supportive documents within a period of three weeks from the date of receipt of a certified copy of this order.

iii) Thereupon, the first respondent is directed to consider the same and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner, and after hearing the petitioner in full, shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.10.2024

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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