IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.29760, 29769, 29775, & 29779 of 2024
and
W.M.P.Nos.32440, 32442, 32450,
32451, 32458, 32459, 32465, 32466 of 2024

1. M/s.Easternbulk Trading And Shipping Pvt. Ltd.
Rep., by its Director,
Mr Mohamed Ilyas,
New No 85, (Old 42), Moore Street Dheen Estate,
IInd Floor, Parrys, Chennai 600 001.

2. M/s.EB Trading Company
Rep. by its Partner,
M/s Easternbulk Trading And Shipping Pvt. Ltd.,
Rep by its Director Mr. Mohamed Ilyas
New No. 85, (Old 42), Moore Street Dheen Estate,
IInd Floor, Parrys, Chennai 600 001.

... Petitioner in all W.P's

Vs.

1. The Deputy Commercial Tax Officer,
Loansquare Zone- I,
Chennai North Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road, Chennai 600 003.

2. The Assistant Commissionner (ST),
Loansquare Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003. ... Respondents in all W.P's

Prayer inW.P.No.29760/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records of the Respondents and quash the Impugned Order dated 04.10.2023 in Form GST DRC-07 bearing Reference No.ZD331023012917S read with the detailed order enclosed as Annexure passed by the 1st Respondent and consequently direct the 1st Respondent to refund the sum of Rs.2,56,731/- collected towards the recovery of arrears as per the said order to the 1st Petitioner and to provide an opportunity to the 2nd Petitioner to respond to the Show Cause Notice dated 02.06.2023, in Form GST DRC-01 bearing reference No.ZD330623004956F and Annexure bearing the said Reference issued by the 1st Respondent.

Prayer inW.P.No.29769/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records of the Respondents and quash the Impugned Order dated 28.12.2023 in Form GST DRC-07 bearing Reference No.ZD3312232390107 read with the detailed order enclosed as Annexure passed by the1st Respondent and consequently direct the 1st Respondent to refund the sum of Rs.1,17,198/- collected towards the recovery of arrears as per the said order to the 1st Petitioner and to provide an opportunity to the 2nd Petitioner to respond to the Show Cause Notice dated 26.09.2023, in Form GST DRC-01 bearing reference

No.ZD3309231851947 and Annexure bearing the said Reference issued by the 1st Respondent.

Prayer inW.P.No.29775/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records of the Respondents and quash the Impugned Order dated 28.12.2023 in Form GST DRC-07 bearing Reference No.ZD3312232406003 read with the detailed order enclosed as Annexure passed by the 1st Respondent and consequently direct the 1st Respondent to refund the sum of Rs.77,18,972/- collected towards the recovery of arrears as per the said order to the 1st Petitioner and to provide an opportunity to the 2nd Petitioner to respond to the Show Cause Notice dated 26.09.2023, in Form GST DRC-01 bearing reference No.ZD3309231848225 and Annexure bearing the said Reference issued by the 1st Respondent.

Prayer inW.P.No.29779/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records of the Respondents and quash the Impugned Order dated 28.12.2023 in Form GST DRC-07 bearing Reference No.ZD331223239243U read with the detailed order enclosed as Annexure passed by the1st Respondent and consequently direct the 1st Respondent to refund the sum of Rs.39,21,680/- collected towards the recovery of arrears as per the said order to the 1st Petitioner and to provide an opportunity to the 2nd Petitioner to respond to the Show Cause Notice dated 31.05.2023, in Form GST DRC-01 bearing reference No.ZD330523146151W and Annexure bearing the said Reference issued by the 1st Respondent.

Appearance in all W.P.s'

For Petitioners : Mr.Abdul Saleem
Senior Counsel for M/S.AAV Partners
For Respondents : Mr.C.Harsh Raj,
Additional Government Pleader (Taxes)

COMMON ORDER

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the impugned orders dated 04.10.2023 & 28.12.2023 passed by the first respondent, the petitioners have filed the present Writ Petitions.

3. Mr.C.Harsh Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.

4. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

5. The learned counsel for the petitioners submitted that the Show

Cause Notices and intimation of issue of reminders were raised on the petitioners in the GST common portal under the head "View Additional Notices and Orders" tabs, as the petitioners were unaware of the same, he failed to respond the said Show Cause Notices and intimation of issue of reminders. Further, he submitted that even an impugned orders were uploaded in the GST portal and the physical version of such orders were not served on the petitioners.

6. The main contention of the learned counsel for the petitioners is that, without providing an opportunity of personal hearing to the petitioners, the present impugned orders came to be passed by the first respondent, thereby resulting in violation of principles of natural justice. Further, he would submit that, the entire tax demand has been recovered from the petitioners in respect of the impugned assessment years in question. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioners to present the case by way of filing a suitable reply and participate in the proceedings.

7. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader (Taxes) for respondents and perused the

materials available on record.

8. 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 notices were uploaded on the GST Portal Tab. According to the petitioners, the petitioners were unaware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were not furnished to them. In such circumstances, this Court is of the view that the impugned orders came to be passed without affording any opportunity of personal hearing to the petitioners to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioners to establish their case on merits and in accordance with law.

9. For the reasons stated above, this Court is inclined to set aside the impugned orders dated 04.10.2023 & 28.12.2023 passed by the first respondent with the following directions:-

(i) The orders impugned herein are set aside and the matters are remanded to the first respondent for fresh consideration.

(ii) The petitioners shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioners, the first respondent shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioners and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioners, as expeditiously as possible.

10. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

04.10.2024

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

Krishnan Ramasamy,J.,
jd

To
1. The Deputy Commercial Tax Officer,
Loansquare Zone- I,
Chennai North Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road, Chennai 600 003.
2. The Assistant Commissionner (ST),
Loansquare Assessment Circle,
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