IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30089 of 2024
& W.M.P.Nos.32782, 32785, 32787 & 32788 of 2024

Shree Mahalakshmi Steels,
New No.158, Palla Thottam,
Mangalam Road, Periyakarunaipalayam,
Avinashi, Tiruppur, Tamil Nadu,
Pin 641 654,
Represented by its Partner,
Mr.Ram Karthik Nagarajan.

... Petitioner

Vs.

1.The Commercial Tax Officer,
Avinashi Assessment Circle, Tiruppur-1,
Veterinary Hospital Road, Kovi Road,
Avinashi 641 654.

2.The Branch Manager,
Karur Vysya Bank,
New No.5/129, Old No.2/39,
B.S.Sundaram Street,
Avinashi 641 654
Tiruppur District.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records and quash the same as illegal, arbitrary and devoid of merit of the 1st respondent impugned order dated 21.02.2024 with reference number ZD3302241204407 passed under Section 74 of the Tamil Nadu Goods and Services Tax Act, along with the summary order dated 21.02.2024 for the financial year 2019-2020 with reference number ZD3302241204407 passed by the 1st respondent.

For Petitioner	:	Mr.G.Sudhakar
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader for R1

ORDER

This writ petition has been filed challenging the impugned order dated 21.02.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the show cause notice issued by the 1st respondent, only the date for submission of reply was mentioned as 04.12.2023, whereas, the date of personal hearing was not mentioned. Due to the confusion on the dates mentioned by the respondents, the Authorised Representative of the petitioner neither filed their reply nor appeared before the 1st respondent. Under these circumstances, the impugned order came to be passed by the 1st respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner had already paid 50% of the tax amount subsequent to the impugned order and hence, he requests this Court to lift the bank attachment and de-freeze the bank account of the petitioner.

5. On the other hand, the learned Additional Government Pleader appearing for the 1st respondent would submit that the 1st respondent has

though the show cause notice was duly issued to the petitioner, the petitioner failed to avail the opportunity of filing reply to the said notice. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st respondent and also perused the materials available on record.

7. In the case on hand, it is clear 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 since 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 21.02.2024 passed by the 1st respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 21.02.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

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

(iii) On filing of such reply/objection by the petitioner, the 1st 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 orders itself have 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 and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

15.10.2024

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

The Commercial Tax Officer,
Avinashi Assessment Circle, Tiruppur-1,
Veterinary Hospital Road, Kovi Road,
Avinashi 641 654.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.30089 of 2024
& W.M.P.Nos.32782, 32785,
32787 & 32788 of 2024

15.10.2024