IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2024

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The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.30397 of 2024
and W.M.P.Nos.33066 & 33081 of 2024

M/s.Shree Rajaganapathy Steels,
Rep. by its Partner Tmt.C.Chandrakala,
S.F.No.656/1, 2, 5, 6, 7, Vaikal Medu,
Pallapalayam Post, Perundurai Taluk,
Erode – 638 116.

...Petitioner

Versus

1.The State Tax Officer (ST),
Perundurai Circle, Perundurai,
No.299, Bhavani Road,
Perundurai – 638 052.

2.The Joint Commissioner (ST) Intelligence,
Erode Division, Erode.

3.The Deputy Commissioner (ST),
Erode, Erode – 638 001.

4.The Branch Manager,
Dhanalakshmi Bank,
10/210, Sathy Road,
Veerapanchatram, Erode.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned Summary of the order of the 1st respondent in Form GST DRC-07 bearing Ref.No.ZD33012402846M/2018-19 dated 06.01.2024 and the consequential impugned bank attachment proceeding issued by the third respondent in Ref.No.33ABFFS8428J1ZV/APR-2018 to MAR-2019 along with Form GST DRC-13 dated 27.06.2024 to the 4th respondent and quash the same and consequently, direct the 1st respondent to provide the Relied Upon documents in support of his stand and afford cross-examination with the suppliers and other third parties and then pass order after affording a personal hearing to the petitioner.

For Petitioner : Mr.M.Hariharan
For Respondents – 1 to 3 : Mrs.K.Vasanthamala, Government Advocate (Tax)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Tax) takes notice for the respondents 1 to 3.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought by the petitioner in this writ petition is to call for the records of the impugned Summary Order in Form GST DRC-07 bearing

Ref.No.ZD33012402846M/2018-19 dated 06.01.2024 passed by the 1st respondent and the consequential impugned bank attachment proceeding in Ref.No.GSTIN:33ABFFS8428J1ZV/APR-2018 to MAR-2019 along with Form GST DRC-13 dated 27.06.2024 issued by the 3rd respondent, to the 4th respondent and quash the same and for the consequential reliefs.

4. The learned counsel for the petitioner submitted that the 1st respondent had issued a Personal Hearing Notice dated 25.11.2023, calling upon the petitioner to appear for personal hearing on 02.12.2023. Thereafter, the 1st respondent had issued an intimation in Form DRC-01A dated 03.10.2023 and Show Cause Notice in DRC-01 dated 30.10.2023. Finally, the 1st respondent has passed the impugned order dated 06.01.2024, confirming the proposal in the show cause notice. Both the show cause notice and impugned proceedings were uploaded in the GST portal and the same were not served to the petitioner through any other mode. Hence, the petitioner was not aware of the impugned proceedings. The petitioner came to know about the impugned order only on 30.08.2024, when the 4th respondent informed the petitioner that the Bank Account of the petitioner has been attached by the 1st respondent for the arrears of tax of

Rs.14,55,628/- for the tax period April 2018 to March 2019. He further submitted that prior to the issuance of impugned order, the 1st respondent did not issue any notice to the petitioner through physical mode and also, did not provide an opportunity of personal hearing to the petitioner to put forth their case. Therefore, the learned counsel prayed this Court to quash the impugned order passed by the 1st respondent.

5. On the other hand, the learned Government Advocate (Tax) appearing for the respondents 1 to 3 submitted that the matter may be remanded back to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Tax) appearing for the respondents 1 to 3 and perused the materials available on record.

7. As far as this case is concerned, without providing an opportunity of hearing to the petitioner, the 1st respondent has passed the impugned order, which is in violation of the principles of natural justice. Therefore,

this Court is of the opinion that the impugned order is ought to be quashed and an opportunity of personal hearing has to be afforded to the petitioner to establish their case.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court issues the following directions:

(i) The impugned order dated 06.01.2024 passed by the 1st respondent is quashed and the matter is remanded back to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount, within a period of four weeks from the date of receipt of a copy of this order. After making such payment, the petitioner shall produce the payment proof before the 1st respondent.

(ii) It is made clear that quashing of the impugned order will come into effect, only from the date of payment of 10% of the disputed tax amount by the petitioner.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the 1st respondent shall consider the petitioner's Reply/Objection and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

(v) Since the impugned assessment order itself has been quashed, the attachment of the petitioner's Bank Account cannot survive any longer. Hence, the attachment of petitioner's Bank Account is hereby ordered to be lifted. As a sequel, the petitioner is directed to produce a copy of the proof of payment of 10% of the disputed tax amount before the 4th respondent and on production of the same, the 4th respondent shall de-freeze the petitioner's Bank Account, immediately.

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

17.10.2024

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Index : Yes/No
Speaking Order (or) Non-Speaking Order

To

1.The State Tax Officer (ST),
Perundurai Circle, Perundurai,
No.299, Bhavani Road,
Perundurai – 638 052.

2.The Joint Commissioner (ST) Intelligence,
Erode Division, Erode.

3.The Deputy Commissioner (ST),
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KRISHNAN RAMASAMY, J.

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