IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31369 of 2024
& W.M.P.Nos.34045, 34046 & 34048 of 2024

M/s.Rhythm Fabrics,
Rep by its Proprietor, Mr.Seetharam Muthukumar,
No.27/19, Police Line 1st Street,
Tiruppur 641 601

... Petitioner

Vs.

1.The State Tax Officer (ST),
Central 1, Assessment Circle,
Tiruppur 641 607.

2.The Commercial Tax Officer,
Tiruppur Central 1,
Tiruppur II, Tiruppur 641 607.

3.Axis Bank,
Rep by its Branch Manager,
No.10, Sri Kannapiran Colony,
Near Kannan Departmental Store,
Uthukuli Road, Tiruppur 641 601

... Respondents

Prayer:

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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the proceedings of the 1st respondent dated 29.04.2024 made in respect of the GSTIN 33ANBPM8303J1Z5/2018-19 and quash the same.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader
for R1 and R2

ORDER

This writ petition has been filed challenging the impugned order dated 29.04.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents 1 and 2. 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 this

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case, a show cause notice dated 19.01.2024 was issued by the respondent. Subsequently, instead of filing the reply for the said show cause notice, the petitioner had appeared before the office of the respondent and orally explained that the alleged amount relates to the unveiled ITC for the Financial Year 2018-2019 and requested the respondents to withdraw the proceedings. However, without considering the said oral submission, the impugned order came to be passed by the 1st respondent on 29.04.2024 Hence, this petition has been filed.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the respondent had issued the show cause notice to the petitioner. However, the petitioner had failed to file their reply within time. Under these circumstances, the impugned order came to be passed by the 1st respondent. Therefore, he requested this Court to remit the matter back to the respondent on terms.

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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 and 2 and also perused the materials available on record.

6. In the case on hand, it is admitted by the petitioner that upon receipt of the show cause notice was issued by the respondent, instead of filing a reply, the petitioner had appeared before the respondent and orally explained that the alleged amount relates to the unveiled ITC for the Financial Year 2018-2019 and requested the respondents to withdraw the proceedings. Thereafter, the impugned order came to be passed by the 1st respondent on 29.04.2024.

7. Further, 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 29.04.2024 passed by the respondent. Accordingly, this Court

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passes the following order:-

(i) The impugned order dated 29.04.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondents within a period of four weeks from today (28.10.2024) 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 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 order 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

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lifted. As a sequel, the 3rd respondent to release the attachment and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

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

28.10.2024

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

To

1.The State Tax Officer (ST),
Central 1, Assessment Circle,
Tiruppur 641 607.

2.The Commercial Tax Officer,
Tiruppur Central 1,
Tiruppur II, Tiruppur 641 607.

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KRISHNAN RAMASAMY.J.,

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