IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.31662 & 31667 of 2024
& W.M.P.Nos.34422, 34423, 34425 & 34426 of 2024

M/s.Insoorya Express Cargo,
Rep by its Partner, Mala,
No.118/273, 2nd Floor,
Thambu Chetty Street,
Chennai 600 001, Tamil Nadu.

... Petitioner in both petitions

Vs.

1.The Assistant Commissioner (ST),
No.32, Integrated Commercial Taxes Office Complex,
Room No.304, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003

2.The Axis Bank Limited,
VP&Branch Head,
George Town Branch,
Chennai 600 424

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 29.04.2024 issued in Ref.No.ZD3304242291300 by the 1st respondent and the impugned attachment notice issued in Form GST DRC13 dated 23.08.2024 with respect to GSTIN 33AABF14611E1Z1 by the 1st respondent and quash the same.

For Petitioner in both petitions	:	Mr.G.Derrick Sam
For Respondent in both petitions	:	Mr.T.N.C.Kaushik, Additional Government Pleader for R1

COMMON ORDER

These writ petitions have been filed challenging the impugned order dated 29.04.2024 and the impugned attachment notice dated 23.08.2024 issued 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 all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. 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, these petitions have been filed. Further, he requests this Court to lift the attachment order dated 23.08.2024 passed by the 1st respondent.

4. On the other hand, the learned Additional Government Pleader appearing for the 1st respondent would submit that the 1st respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. 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 1st respondent, subject to the payment of 10% of the disputed amount by the petitioner.

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

6. In the cases 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 29.04.2024 passed by the 1st respondent. Accordingly, this Court 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 vide order dated 23.08.2024, 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 proof with regard to the payment of 10% of the demand amount by the petitioner as stated above.

7. With the above directions, these writ petitions are 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

The Assistant Commissioner (ST),
No.32, Integrated Commercial Taxes Office Complex,
Room No.304, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003

KRISHNAN RAMASAMY.J.,

nsa

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