IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31551 of 2024
& W.M.P.Nos.34287, 34289, 34291 & 34292 of 2024

M/s.Best Interior Decorators,
3/326, Bharathi Nagar,
K Vadamadurai, Coimbatore,
641 017
Rep by its Partner, Mr.Basha Akbar

... Petitioner

Vs.

1.The Commercial Tax Officer,
Periyanaickenpalayam Circle,
Coimbatore 18.

2.The Branch Manager,
Canara Bank, Sethur Complex,
Mettupalayam Road, Thudiyalur,
Coimbatore 641 034.

... 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 in the file of the respondents and quash the impugned order dated 03.04.2024 with reference GSTR No.33AALFB6857F1ZC/2018-19 passed under Section 73 of the TNGST Act along with the summary order dated 04.04.2024 with Ref.No.ZD330424039413S passed by the 1st respondent.

For Petitioner : Mr.G.Sudhakar

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 03.04.2024 passed by the 1st respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, 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 though the show cause notice was issued by the respondent on 26.12.2023, the authorized representative of the petitioner had failed to inform the same to the petitioner, due to which, the petitioner was unable to file their reply within time. Under these circumstances, the impugned order came to be

passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the 1st respondent would submit that the respondent has issued the notices to the petitioner. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the 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 Government Advocate for the respondent and also perused the materials available on record.

6. 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 03.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 03.04.2024 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 respondent within a period of four weeks from today (24.10.2024) 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 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, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

24.10.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Commercial Tax Officer,
Periyanaickenpalayam Circle,
Coimbatore 18.

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