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W.P.No.31448 of 20_

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.10.2024

Coram

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.31448 of 2024

and W.M.P.Nos.34152, 34153, 34154 & 34165 of 2024

Kandasamy Sivaprakash,
Proprietor, M/s.Shiva Automobiles Accessories,
17, Sannathi Street, Thiruvottiur,
Chennai, Tiruvallur, Tamil Nadu – 600 019.

...Petitioner

Versus

1.The Assistant Commissioner (ST),
Thiruvottiur Assessment Circle,
Room No.215, 2nd Floor,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai – 600 003.

2.The Branch Manager,
Bank of India, No.123, G.A.Road,
Old Washermenpet, Chennai – 600 021.

...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 culminating in 1st respondent's assessment order No.ZD330424197172H dated 25.04.2024 and the 1st respondent's communication dated 25.09.2024 addressed to the 2nd respondent and quash the same.



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For Petitioner : Mr.V.Haribabu
For Respondent – 1 : Mr.C.Harsha Raj,
Additional Government Pleader

ORDER

Mr.C.Harsha Raj, learned Additional Government Pleader takes notice for the first respondent.

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 herein is to call for the records culminating in first respondent's Assessment Order No.ZD330424197172H dated 25.04.2024 and first respondent's Communication dated 25.09.2024 addressed to the second respondent and quash the same.

4. The case of the petitioner is that he is a retailer who filed his returns for the financial year 2018-2019, furnishing the details of outward and inward supplies, ITC availed, taxes paid etc., in the Financial Year



2018-2019. While so, on 29.01.2022, he was issued with a Show Cause Notice under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as 'Act') alleging that there was (1) Difference noticed between GSTR 1 & GSTR 3B and (2) Difference noticed between GSTR 2A & GSTR 3B and demanding him to make payment of tax for a sum of Rs.75,14,995/- together with interest, failing which, the outward supply would be treated as escaped turnover and proceedings would be initiated against him under Section 74 of the Act. After the receipt of said Show Cause Notice, the petitioner vide Reply dated 27.03.2024, clarified that he had mistakenly entered B2C Sales in GSTR 1 and requested to drop the demand. However, without accepting the said reply, the first respondent passed the Assessment Order bearing Ref.No.ZD330424197172H dated 25.04.2024 under Section 74 of the Act, directing the petitioner to pay a sum of Rs.53,88,494/- by 24.07.2024.

4.1. Subsequently, the petitioner filed a Rectification Petition on 18.07.2024 stating that turnover for the year 2018-2019 was mistakenly mentioned as Rs.2,47,94,015/- instead of Rs.8,752.82/- in B2C of GSTR1 for the month of March 2019, whereas, the tax amount proposed is for 9



times more than the actual turnover and hence, the demand may be dropped.

4.2. While the said Rectification Petition is pending, the first respondent sent a Communication dated 25.09.2024 to the second respondent alleging that the petitioner is a defaulter of tax under Section 75(12) of the Act to the extent of Rs.53,88,494/- and requesting the Bank to remit the amount to the first respondent, pursuant to which, the second respondent froze the petitioner's Bank Account on 03.10.2024 and created a lien to the extent of Rs.53,88,494/-. Hence, left with no other alternative, the petitioner has knocked the doors of this Court with the present writ petition.

5. The learned counsel for the petitioner contended that the petitioner filed his reply to the Show Cause Notice, wherein, it is clearly stated that he had mistakenly entered B2C Sales in GSTR 1 and requested to drop the demand. However, neither considering the petitioner's reply nor affording him an opportunity of personal hearing, the first respondent has passed the impugned assessment order, which is in violation of the principles of natural justice. He also contended that based on the communications sent by the first respondent, the second respondent has frozen the Bank Account of the



petitioner which affects the business activities of the petitioner. Therefore, the learned counsel prayed this Court to quash the assessment order passed by the respondent as well as the communication dated 25.09.2024 addressed to the second respondent by the first respondent.

6. On the other hand, the learned Additional Government Pleader appearing for the first respondent prayed this Court to remand the matter back to the first respondent on condition that the petitioner shall pay 10% of the disputed tax amount.

7. Heard the learned counsel on either side and perused the materials available on record.

8. As far as this case is concerned, without providing an opportunity of personal hearing to the petitioner, the first respondent has passed the impugned assessment order. Therefore, this Court is of the opinion that the impugned assessment order passed by the first respondent is liable to be quashed and it is just to afford an opportunity of personal hearing to the petitioner to put forth his case.



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9. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court feels that it would be appropriate to issue the following directions:

(i) The Assessment Order bearing Ref.No.ZD330424197172H dated 25.04.2024 passed by the first respondent and the Communication dated 25.09.2024 addressed to the second respondent by the first respondent are quashed and the matter is remanded back to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount to the first respondent, 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 first respondent.

(ii) It is made clear that quashing of the impugned orders 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 his Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the first respondent shall consider the petitioner's Reply/Objection and pass appropriate orders,



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on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

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(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 second respondent and on production of the same, the second respondent shall de-freeze the petitioner's Bank Account immediately.

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

22.10.2024

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Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order

Note to Registry: Issue order copy on 24.10.2024



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- To
- 1.The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Room No.215, 2nd Floor,
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 - 2.The Branch Manager,
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KRISHNAN RAMASAMY, J.

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