IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31895 of 2024
& W.M.P.Nos.34640 to 34642 of 2024

Tvl.Senthil Murugan Fabrik,
Represented by its Proprietor, Mr.Kandasamy Ramalingam,
1/116, NA, New Street, Vembadithalam Post,
Salem, Tamil Nadu 637 504

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
3rd Floor, Commercial Taxes Office Building,
Pitchars Road, Hasthampatty,
Salem 7

2.The Branch Manager,
Dena Bank,
108, Shevapet Main Road,
Kummati Place, Salem 636 002.

... 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 impugned order dated 30.04.2024 with Ref.No.ZD3304242600470 in the files of the 1st respondent and quash the same.

For Petitioner	:	Mr.S.Ramamurthy
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader for R1

ORDER

This writ petition has been filed challenging the impugned order dated 30.04.2024 passed 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 respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that subsequent to the said impugned order, the 1st respondent had recovered a sum of Rs.17,51,472/-, i.e., around 68% of the total tax demand of Rs.25,57,445/-. Hence, he requests this Court to lift the bank attachment made by the 1st respondent.

5. 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 pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the 1st respondent and also perused the materials available on record.

7. 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. Further, it was submitted by the petitioner that around 68% of the disputed tax amount was already recovered by the 1st respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 30.04.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(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 a copy of this order.

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

The Assistant Commissioner (ST),
Salem Rural Assessment Circle,
3rd Floor, Commercial Taxes Office Building,
Pitchars Road, Hasthampatty,
Salem 7

KRISHNAN RAMASAMY.J.,

nsa

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(2/2)