IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31889 of 2024
& W.M.P.Nos.34626 to 34630 of 2024

M/s.Vaigai Agritech,
Rep by its Partner, Mr.Karthik J R,
No.3/385B, Plot No.35, SK Nagar,
Seelanaickenpatty Byepass, Salem,
Tamil Nadu 636 201.

... Petitioner

Vs.

1.The State Tax Officer,
Kondalampatty Assessment Circle,
III Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem 636 207

2.State Bank of India,
Rep by its Branch Manager,
Gajalnaickenpatti Branch,
Gajalnaickenpatti, Salem 636 201.

3.ICICI Bank Limited,
Rep by its Branch Manager,
Gugai Branch, Bomanna Palace,
741, Trichy Main Road,
Gugai, Salem 636006.

4.Union Bank of India,
Rep by its Branch Manager,
Valapady Branch,
Salem Cuddalore Main Road,
Post Valapady, Salem 636 115

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order dated 24.04.202 with Ref. GSTIN33AAOFV1872H1ZW/2018-19 in the files of the respondent and quash the same and further, to direct the 1st respondent to pass orders afresh after giving the petitioner an opportunity to submit a reply and of personal hearing.

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 24.04.2024 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 initially, the respondent had issued a show cause notice dated 28.12.2023, for which, a reply dated 27.01.2024 was filed by the petitioner seeking adjournment. Thereafter, three reminder notices were issued by the respondent. However, the petitioner was unable to participate in the proceedings due to the ill-health of his partner. Under these circumstances, the *ex parte* impugned order came to be passed, whereby the tax demand of a sum of Rs.93,35,641/- was confirmed by the 1st respondent.

4. Further, he would submit that subsequent to the said impugned order, the 1st respondent had recovered a sum of Rs.16,21,234/-, i.e., around 17% of the total tax demand. 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 issued three reminder notices calling upon the petitioner for personal hearing. But the petitioner had failed to avail the said opportunities. Thereafter, the impugned order came to be passed by the 1st respondent. 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 the 1st respondent had issued three reminder notices, despite which, the petitioner was unable to participate in the proceedings, due to the health issues of his partner. In such case, the reason assigned by the petitioner, for not participating in the proceedings, appears to be genuine. Further, it was submitted by the petitioner that around 17% of the disputed tax amount was already recovered by the 1st respondent. Hence, this Court is of the view that 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 24.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 24.04.2024 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 respondents 2 to 4 are 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 State Tax Officer,
Kondalampatty Assessment Circle,
III Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem 636 207

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.31889 of 2024
& W.M.P.Nos.34626 to 34630 of 2024

28.10.2024
(1/2)