IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 24.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6250 of 2025
and
W.M.P.Nos.6866 & 6868 of 2025

Sri Chakkra Cabinets,
rep. by its Partner, Mr.T.C.Sarguna ...Petitioner

Vs.

1. The Commercial Tax Officer,
   Office of the Commercial Tax Officer,
   Choolai, North III, Chennai.

2. The State Tax Officer (ST)
   Office of the State Tax Officer (ST)
   Choolai Assessment Circle, Chennai – 06.

3. The Assistant Commissioner,
   Office of the Assistant Commissioner,
   Choolai Assessment Circle
   Chennai.

4. The Branch Manager,
   State Bank o India,
   IFSC Code : SBIN0007107,
   33, EVK Sampath Road,
   Vepery, Chennai – 600 007.

...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records and to quash the order passed by the first respondent under Section 73 of CGST Act, in form GST DRC-07 bearing Ref.No.ZD3308242595528 dated 28.08.2024 and consequently, to direct the fourth respondent to de-freeze the petitioner's Bank Account with reference to the above impugned order under Form GST DRC-07 bearing Ref No.ZD3308242595528 dated 28.08.2024 passed by the first respondent within a time framed fixed by this Court.

For Petitioner : Mr.I.M.Siddarth Ramarajan
For Respondents 1 to 3 : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.I.M.Siddarth Ramarajan, learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of the respondents 1 to 3. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the first respondent under Section 73 of CGST Act, in form GST DRC-07 dated

28.08.2024 and consequently, to direct the fourth respondent to de-freeze the petitioner's Bank Account with reference to the above impugned order under Form GST DRC-07 bearing Ref No.ZD3308242595528 dated 28.08.2024 passed by the first respondent within a time framed fixed by this Court.

3. The learned counsel for the petitioner would submit that the petitioner though filed a reply to the show cause notice with the assistance of the erstwhile Consultant, since, the respondent-Department has not given any response to the reply dated 20.06.2024 for nearly one month, the petitioner assumed that the reply filed by the erstwhile consultant was accepted by the respondent-Department and the proceedings might have been dropped, and the petitioner also discontinued the service of the Consultant, however, the petitioner came to know of the fact that the said reply was not accepted only on a communication issued by the second respondent on 04.01.2025, which is much later to the passing of the impugned order dated 28.08.2024, hence, the petitioner was not in a position to file reply afresh. Further, it is submitted that the petitioner was not even aware of the impugned order passed against them, since the same was not directly served on the petitioner but only uploaded in the GST Portal only when the third respondent initiated recovery proceedings against the petitioner, the petitioner became aware of the impugned order.

3.1 Therefore, the learned counsel contended that the impugned orders suffers from violation of principles of natural justice and are liable to be aside, and the learned counsel pleads that if one more opportunity is given, the petitioner would be able to putforth their contentions by way of a detailed reply. Further, it is submitted that in pursuance of the impugned order, recovery proceedings have been initiated against the petitioner and a sum of Rs.3,25,320/- has also been recovered by virtue of bank attachment, and if the same is allowed to be continued, the petitioner's business would come to a stand-still and hence, seeks for appropriate orders.

4. The learned Government Advocate (T) for the respondents 1 to 3 fairly submitted that since already 40% of the disputed tax has been recovered from the petitioner, subject to the verification of the statement made by the petitioner in that regard, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of records, it is seen that the first respondent has issued a show cause notice in Form GST DRC-01 dated 22.05.2024 by fixing the date for reply on 22.06.2024 and fixed the personal hearing, without even mentioning the date, time and venue. Thereafter, the first respondent caused a reminder to the said show cause notice on 19.06.2024, by fixing the date for filing reply on 26.06.2024, and as regards personal hearing, again, no specific date, time and venue were mentioned thereunder. Since all the notices pertaining to the show cause notice dated 22.05.2024 were sent only on the GST Portal, under the column "Additional Notice" tab, the same were unnoticed by the petitioner, however, the petitioner's erstwhile Consultant noticed the same and filed a reply on 20.06.2024 and was expecting for response, however, nearly for three weeks, nothing was updated and hence, the petitioner assumed that the issue was solved and thereafter, the petitioner discontinued the service of the tax consultant. However, the respondents, all of a sudden, passed the impugned order dated 28.08.2024, raising demand for tax/interest/penalty, without even giving an opportunity to the petitioner to putforth their contentions. Added to that, the said impugned order was not served on the petitioner through any physical mode of service but was merely uploaded in the GST Portal, which the petitioner was not aware. Only on 04.01.2025, when the petitioner received a notice dated 02.01.2025 sent by the second respondent, the petitioner came to know that the reply filed by the erstwhile tax consultant was not accepted. In the interregnum, the third respondent, in pursuance of the impugned order, has initiated recovery proceedings by virtue of which, the petitioner's bank account has been attached and a sum of Rs.3,25,320/- was also recovered from the petitioner through electronic cash ledger.

6.1 Therefore, it is clear that the fact that the reply filed by the petitioner's ex-Consultant was not accepted by the respondents was came to the notice of the petitioner only on 04.01.2025, i.e. much later to the passing of the impugned order, hence, the petitioner was not in a position to file any detailed/better reply. However, the first respondent without even providing an opportunity of personal hearing, passed the impugned order, which suffers from violation of principles of natural justice. Therefore, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 28.08.2024 passed by the first respondent is set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is directed to file a detailed reply along with supportive documents within a period of three weeks from the date of receipt of a copy of this order.

iv) Thereupon, the first respondent is directed to consider the detailed reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

v) So far as the Bank Attachment Order is concerned, it is needless to state that once the impugned order is set aside, the attachment order can no longer survive and the same has to be go of. Accordingly, the respondent-Department is directed to issue appropriate directions on the petitioner's Banker to de-freeze the petitioner's bank account forthwith.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.02.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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