IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.11678 of 2025
and
W.M.P.Nos.13210 and 13211 of 2025

M/s.Bravo Realtors
Ground Floor, Shop No.11A, No.150,
Dharma Tower, Nelson Manickam Rd,
Choolaimedu, Chennai-600094. ...Petitioner

Vs.

Assistant Commissioner [ST][FAC]
KK Nagar Assessment Circle
5th Floor, PAPJM Annex Building,
Greams Road, Chennai-6. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the Respondent in Impugned Order bearing Ref ZD330824172175C dated 20.08.2024 passed by the Respondent under Section 73 of the CGST Act and quash the same and direct the Respondent to remove the lien mark placed on the bank account of the petitioner.

For Petitioner : Ms.Anu Viswanath

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the order of the 1st respondent dated 20.08.2024 and to quash the same and direct the Respondent to remove the lien mark placed on the bank account of the petitioner.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the Respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 20.05.2024 was issued to the petitioner by uploading the same in the GST Portal. Since the petitioner's auditor failed to inform the petitioner about the show cause notice, the petitioner was not aware of the same and hence could not file its reply. In the meantime, the respondent passed the impugned order dated 20.08.2024, demanding tax along with interest and

penalty for the Assessment Year 2019-2020 and the same was also uploaded in the GST portal. The petitioner came to know of the impugned order only after the attachment of the petitioner's current account.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices were issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their

claim, for which, the learned Government Advocate (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST portal and since the petitioner's auditor failed to bring it to the knowledge of the petitioner, the petitioner was not aware of the same and therefore failed to submit its reply.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and 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 assessment order dated 18.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent within a period of ***four weeks*** from the date of receipt of a copy of this order 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 two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the 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 to be lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, on production of proof with regard to payment of 25% as stated above,

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

02.04.2025

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

Assistant Commissioner [ST][FAC]
KK Nagar Assessment Circle
5th Floor, PAPJM Annex Building,
Greams Road, Chennai-6.

Krishnan Ramasamy,J.,

arr

W.P.No.11678 of 2025

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