IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15656 of 2025
and
W.M.P.Nos.17707& 17711 of 2025

M/s. Sha Bhabutmal & Co.
Rep. by its Managing Partner,
Mr.Kantilal. ...Petitioner

Vs.

1. The State Tax Officer,
Sowcarpet Assessment Circle
3rd Floor, Wall Tax Road, Room No.302,
Chennai – 600 003.

2. The Indian Bank,
rep. By its Branch Manager,
No.136 Audiappa Street, Kothawal Bazaar,
Chennai – 600 001. ...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 relating to the impugned order dated 20.06.2024 bearing Ref.No.GSTIN : 33AABFS0419A1Z1/2019-20 of the first respondent and to quash the same as arbitrary.

For Petitioner : M/s.G.Gautham Ram Vittal

For Respondent-1 : Ms.P.Selvi
Government Advocate (T)

Order

Heard learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (T) who takes notice on behalf of the first respondent. 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 dated 20.06.2024 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that

a show cause notice dated 18.12.2023 has been issued by the respondent calling forth petitioner's reply; that the petitioner filed reply on 20.02.2024, however, the first respondent, without taking into consideration of the said reply and without even providing an opportunity of personal hearing, passed the impugned order, by stating that reply was not provided by the petitioner even after providing sufficient time; that in furtherance of the impugned order, the first respondent also recovered a sum of Rs.3,32,835/- from the petitioner's bank account. Therefore, the learned counsel contended that the impugned order passed by the first respondent is arbitrary, illegal, suffers from violation of principles of natural justice and is liable to be set aside.

4. The learned Government Advocate for the first respondent would submit that since it has been stated by the learned counsel for the petitioner that the reply was filed and the same was not taken into consideration by the first respondent while passing the impugned order, this Court may set aside the impugned order and remand the matter back for re-consideration.

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

6. In the present case, the first respondent issued a show cause notice dated 18.12.2023 calling upon the petitioner to file reply.

Accordingly, the petitioner filed their reply on 20.02.2024. Therefore, the first respondent, after gothrouging the same, is supposed to provide an opportunity of personal hearing to the petitioner, whereas, the first respondent, without taking into consideration of the reply and without even granting an opportunity of personal hearing, proceeded to confirm the proposals contained in the show cause notice and passed the impugned order by recording as if, no reply was filed by the petitioner, and in furtherance of the impugned order also initiated recovery proceedings, whereby, a sum of Rs.3,32,835/- has been recovered from the petitioner's bank account. Therefore, this Court is of the view that the impugned order is an outcome of total non-application of mind, and also suffers from violation of principles of natural justice and has to be set aside.

6.1 Accordingly, this Court is inclined to pass the following the order/directions:-

i) The impugned order passed by the first respondent dated 20.06.2024 is set aside.

ii) The matter is remanded to the first respondent for fresh consideration, who shall take into consideration of the reply filed by the petitioner and after gothroughing the same, shall issue a 14 clear days notice affording an opportunity of personal hearing and after hearing the petitioner shall decide the matter in accordance with law.

and

iii) In the event, the petitioner intends to file any additional reply, the same may be filed within a period of two weeks from the date of receipt of a copy of this order and the same also be gone into by the first respondent before passing the final orders.

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

29.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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