

Court No. - 2

Case :- WRIT TAX No. - 169 of 2024

Petitioner :- M/S Siddha Mahajan Pvt.Ltd.Reg.No.(Gstin/Unique Id)09abhcs9070p1ze Thru.Director Rakesh Kumar Singh

Respondent :- Union Of India Thru. Secy. Deptt. Revenue Ministry Of Finance , New Delhi And Others

Counsel for Petitioner :- Mukesh Kumar Tewari

Counsel for Respondent :- A.S.G.I.,C.S.C.,Digvijay Nath Dubey,Rakesh Kumar Singh

Hon'ble Alok Mathur,J.

Hon'ble Arun Kumar Singh Deshwal,J.

1. Heard Sri Mukesh Kumar Tewari, learned counsel for the petitioner. Sri Sauabh Mishra, Advocate has filed memo of appearance on behalf of respondent no. 1 and Sri Digvijay Nath Dubey, learned counsel appearing for respondent nos. 2 and 3 and Sri Rakesh Kumar Singh, learned counsel has accepted notice on behalf of respondent no. 4.

2. It has been submitted by learned counsel for the petitioner that petitioner is registered with the GST Department under the provisions of U.P. G.S.T. Act, 2017 (*hereinafter referred to as "the Act, 2017"*). It has been further submitted that the petitioner has availed cash credit facility under the Maha Krishi Smriddhi Yojana from the Bank of Maharashtra on 18.12.2023 and the petitioner was maintaining the Cash Credit Account bearing No. 60472170228.

3. Grievance raised by the petitioner in the present writ petition is with regard to order dated 08.03.2024, wherein Principal Additional Director General, DGGI, Lucknow Zonal Unit has passed the order of provisional attachment under Section 83 of CGST Act, 2017 in FORM GST DRC-22, wherein the Branch Manager of Bank of Maharashtra has been directed not to allow the petitioner to debit from the account of the Company or other accounts operated by the petitioner company on the same PAN and the Cash Credit Account.

4. It is submitted by learned counsel for the petitioner that the impugned order dated 08.04.2024 is in violation of the provisions of Section 159 of the CGST Rules, 2017. It has been submitted that the copy of the Form GST DRC-22 was sent only to the respondent bank without getting copy of the same sent to the petitioner as provided under Section 159(2) of the CGST Rules, 2017. It is submitted that in case petitioner would have received copy of the said order under Rule 159(2), he would have availed remedy and filed objections which could have been decided in terms of provisions of Sub Rule 5 of Rule 159.

5. Learned counsel for the petitioner has also submitted that the impugned order is without jurisdiction inasmuch as it has been passed by the Principal Additional Director General, DGGI, Lucknow Zonal Unit under Rule 159 of the Rules, 2017, while the same has to be passed by the Commissioner.

6. Learned counsel for the respondents on the other hand have opposed the writ petition and have submitted that various notices have been issued to the petitioner but he did not respond to the same and by means of impugned order account of the petitioner has been attached.

7. It has been submitted that authorities under the GST Act have been described under Section 3 of the said Act and as per Section 3(d), Additional Director General would be equivalent to the Commissioner and it is stated that there is no illegality in the impugned order.

8. In any view of the matter, learned counsel for the petitioner submits that he has received copy of order dated 08.03.2024 from respondent no. 4 and he may be permitted to file objections which may be decided in terms of Rule 159(5) of the Rules, 2017.

9. Accordingly, present writ petition is disposed of with liberty to the petitioner to file objections to order dated 08.03.2024 with expedition, say within next two weeks. While filing objections it shall be open for the petitioner to take all the grounds including the ground of jurisdiction.

10. In case objections are filed as directed by this Court, the appropriate authority shall consider and decide the same expeditiously, strictly in accordance with law within two weeks thereafter. In case objections of the petitioner are favorably considered, appropriate orders shall be passed for release of his account.

11. With above directions the writ petition stands **disposed of**.

Order Date :- 28.6.2024

A. Verma

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)