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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (T) NO. 173 OF 2016

Panchsheel Poultry Farms and Poultry Private Limited, a company incorporated under the Companies Act, 1956, having its registered office at Baldeo Bagh, Rajnandgaon (C.G.), through its Director Mr. Samir Lalani, aged about 50 years, S/o Late Sadruddin Lalani, R/o House No. 301, Baldeo Bagh, Rajnandgaon (C.G.)

… Petitioner

Versus

1. Commercial Tax Officer, Rajnandgaon, Office of C.T.O., behind Old Rest House, Rajnandgaon (C.G.)
2. State Bank of India, through its Branch Manager, Small and Medium Enterprises Branch (S.M.E. Branch), Ganj Line, Rajnandgaon (C.G.)
3. State of Chhattisgarh, through Secretary Department of Commercial Taxes, Mahanadi Bhawan, Naya Raipur (C.G.)

… Respondents

For Petitioner	:	Mr. Siddharth Dubey, Advocate.
For Respondent 1 & 3	:	Mr. Gary Mukhopadhyay, Dy. Govt. Advocate.
For Respondent 2	:	Mr. P.R. Patankar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/07/2017

1. Primary challenge in the present writ petition is to the order dated 3.12.2016 (Annexure P-2) passed by Respondent No.2 whereby the account of the petitioner-firm has been put on hold by Respondent No.2 as per the instructions received from the Commercial Tax Department of the State of Chhattisgarh.

2. Annexure P-2 was issued by Respondent No.2 on the basis of an order of attachment issued by Respondent No.1 asking all the Banks in the Rajnandgaon district to attach if there is any bank account of the firm M/s Panchsheel Solvent Pvt. Ltd., Baldeo Bagh, Ward No.14, Rajnandgaon, of which AAGPL5776N (PAN No.) was one of the PAN numbers given of a Director and who was a Director in both the firms i.e. M/s Panchsheel Solvent Pvt. Ltd. and M/s Panchsheel Poultry Farms and Poultry Pvt. Ltd.

3. Contention of the learned Counsel for the Petitioner is that so far as the petitioner-firm is concerned there is no outstanding whatsoever due to the State Government and as such the attachment proceeding initiated against the petitioner's bank account is per se illegal. He submits that the only thing common so far as the petitioner-firm is concerned is that, one of the Directors happens to be common in both the firms i.e. M/s Panchsheel Solvent Pvt. Ltd. and M/s Panchsheel Poultry Farms and Poultry Pvt. Ltd. Apart from this, so far as the commercial transaction is concerned, the two units are separate entity in itself and therefore the bank account of the petitioner-firm could not have been stalled.

4. Learned Counsel for Respondent No.2 submits that by virtue of PAN number provided by the Commercial Tax Department they had issued Annexure P-2 without verifying in fact as regards the outstanding if any of the petitioner-firm due to the State Government. He further submits that it was only under specific instructions of Respondent No.1 that they had passed Annexure P-2. He next submits that by virtue of the interim order passed by this Court on 23.12.2016, the petitioner has been permitted to operate the said bank account without any interruption and which the petitioner has been doing continuously.

5. At this juncture, learned Counsel for the State submits that there was an outstanding due payable to respondent No.2 - department by M/s Panchsheel Solvent Pvt. Ltd. to the extent of Rs. 36,39,751/- and that one of the PAN numbers which was available with the Commercial Tax Department was that of Mr. Sameer Lalani who was a Director of M/s Panchsheel Solvent Pvt. Ltd. and therefore the attachment notices were issued for attachment of the bank account operated by Mr. Sameer Lalani in different banks in Rajnandgaon district.

6. On a specific query being put to the learned Counsel for the State, he submits that so far as the petitioner-firm is concerned there does not appear to be any outstanding dues and that the outstanding in fact is against M/s Panchsheel Solvent Pvt. Ltd. Learned Counsel for the State also submits that it is because of the PAN number which was provided of Mr. Sameer Lalani that the account of the petitioner-firm got freezed by Respondent No.2.

7. In the given factual backdrop of the case, this Court does not find it necessary to keep the present writ petition pending any further, in the light of the reply of the State as also the submissions made by the learned Counsel for Respondent No.2-State Bank of India. Undisputedly, there is no outstanding due as on date against the petitioner-firm. It is also not in dispute that the issuance of Annexure P-1 was so far as the outstanding due that was against M/s Panchsheel Solvent Pvt. Ltd. and not against the petitioner-firm.

8. In view of the same, the present writ petition deserves to be and is accordingly allowed. The impugned order dated 3.12.2016 (Annexure P-2) is set aside/quashed to the extent it is made applicable against the petitioner-firm. Needless to mention that the quashment of Annexure P-2 would not come in the way of the State Government initiating appropriate proceeding for recovery of outstanding dues against M/s Panchsheel Solvent Pvt. Ltd.

9. With the aforesaid observations, the writ petition stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

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