

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.7620 of 2017

and

W.M.P.Nos. 8323 & 8324 of 2017

M/s.BNR Infrastructure & Projects Pvt. Ltd.,
Represented by its Director
No.923, 17th Main Road,
Anna Nagar West,
Chennai-600 040.

....Petitioner

Vs.

1.The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
Chennai-600 102.

2.The Branch Manager
Indian Bank
A.E. Block 175, 11th Main Road,
Anna Nagar, Chennai-600 040.

....Respondents

Prayer:

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the first respondent in his proceedings in TIN:339810206443/A3/2015, quash the bank attachment notice dated 21.03.2017 issued to the second respondent.

For Petitioner : Mr.P.Rajkumar

for M/s.P.V.Sudakar

For Respondent No.I: Mr.S.Kanmani Annamalai

Additional Government Pleader
(Tax)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax), takes notice for the first respondent. The second respondent is the Bank / Garnishee, against whom, the order of attachment impugned in this writ petition was issued,

preventing the bank from permitting the petitioner to operate the account, since the petitioner is in arrears of sales tax to the tune of Rs.19,45,267/-.

2. Heard both sides.

3. The grievance of the petitioner is that there is no necessity for issuance of the impugned order of attachment by claiming that the petitioner is in arrears of sales tax to the tune of Rs.19,45,267/-, when the TDS certificate issued by the principal namely M/s.P & C Projects Private Limited, under whom, the petitioner is doing a works contract, would indicate the tax deduction to the tune of Rs.37,77,109/-. Therefore it is contended that the first respondent has issued the impugned proceedings without cross verification of those details.

4. However, the learned counsel appearing for the petitioner submitted that the first respondent can very well cross verify those particulars and in the mean time the petitioner may be permitted to operate the bank accounts, so that the day to day affairs of the petitioner is not totally paralyzed. The learned counsel appearing for the petitioner has also fairly submitted that the petitioner may be permitted to operate the bank account in respect of the amount over and above the disputed liability of the tax Rs.19,45,267/-, pending cross verification of the above said facts.

5. The learned Additional Government Pleader (Tax) submitted that if the petitioner is protecting the interest of the department by retaining the said sum of Rs.19,45,267/- in their account, at any point of time, during the pendency of the verification of the details as given by the petitioner, there will not be any impediment for the first respondent to permit the petitioner to operate the account in respect of the money over and above the said sum of Rs.19,45,267/-.

6. Considering the above facts and circumstances and also considering the fact that it is claimed by the petitioner that the principal of the petitioner has also issued a TDS for Rs.37,77,109/- and such fact has to be verified by the first respondent and further considering the fact that the petitioner has come forward to protect the interest of the department by retaining the said sum of Rs. Rs.19,45,267/- in their bank account, this Writ petition is allowed in terms as stated hereunder:-

The order passed by the first respondent dated 21.03.2017 impugned in this writ petition is set aside subject to the following terms & conditions:

(a) The petitioner shall allow a sum of Rs.19,50,000/- to be made available in the bank account at all times pending

verification by the first respondent as stated supra.

(b) The petitioner is entitled to operate the bank account in respect of the amount available over and above the said sum of Rs.19,50,000/-.

(c) The first respondent shall verify the facts as stated by the petitioner and pass fresh order within a period of seven days from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (CT)
Amaindakarai Assessment Circle
Chennai-600 102.

2.The Branch Manager
Indian Bank
A.E. Block 175, 11th Main Road,
Anna Nagar, Chennai-600 040.

+1cc to Mr.Sudakar, Advocate, S.R.No.19343
+1cc to the Government Pleader, S.R.No.19455

W.P.Nos.7620 of 2017

KGK(CO)
RS(28/03/2017)

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