

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.33800 OF 2017

AND

W.M.P.NO.37447 OF 2017

M/s.Balalji On Board Couriers,
Rep. by its Partner C. Andrews Rajkumar,
New No.9, Mahalingam Street,
Mahalingapuram, Chennai 34.

...Petitioner

Vs.

1. The Income Tax Officer,
T.D.S.Ward (12),
Room No.204 New Block,
No.16, Greams Road,
Thousand Light, Chennai 24.
2. The Branch Manager
Andhra Bank, Egmore Branch
Chennai 8.
3. The Branch Manager
HDFC Bank, Egmore Branch
Chennai 8.
4. The Branch Manager
Bank of Baroda, Egmore Branch
Chennai 8.
5. The Branch Manager
YES Bank
Nungambakkam Branch
Chennai 34.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records of the first respondent in his proceeding No.TDS 1(2)/Inspection/2017-18, in communication reference No.07092017/00436/CD, dated 21.09.2017 and quash the same as illegal and against the law.

For Petitioner : Mr.D.Vijayakumar
For Respondent-1 : Mrs.Hema Muralikrishnan
Senior Standing Counsel

O R D E R

Heard Mr.D.Vijayakumar, the learned counsel appearing for the petitioner and Mrs.Hema Muralikrishnan, the learned Senior Standing Counsel, accepting notice on behalf of the first respondent. In the light of the order, which the Court proposes to pass herein, notices to the respondents 2 and 5 are dispensed with.

2. The petitioner was issued a demand, dated 21.09.2017, calling upon them to pay a sum of Rs.3001260.00/-. On receipt of the demand, the petitioner submitted a representation, dated 21.09.2017, furnishing certain details, which appears to be a reply to the observations made in the demand, dated 21.09.2017. Subsequently, the petitioner made another representation, dated 05.10.2017, stating that the arrears as demanded is due to error committed while uploading Form 26 Q by National Securities Depository Ltd. It appears that, certain informations given by the petitioner were taken into consideration and the demand stood reduced. Subsequently, the respondent issued notice under Section 276B/276BB of the Income Tax Act, 1961, dated 02.11.2017, with a view to afford one opportunity to the petitioner, directing them to appear for the hearing on 14.11.2017, and produce necessary evidence. The petitioner is stated to have appeared on the said date and produced necessary evidence, enclosing the challans. However, without any reply to the documents produced by the petitioner, the respondent has addressed the petitioner's bankers, by the impugned notice under Section 226 (3) of the Income Tax Act, 1961 for recovery the arrears of Tax Deducted at Source.

3. The petitioner's case that, if the details furnished by the petitioner were taken into consideration and the stand taken by them were properly considered, the demand would not have arisen.

4. In my considered view, the respondent, having issued notice and afforded an opportunity of personal hearing, should have informed the petitioner as to whether the stand taken by them is justified or not, and without doing so, the respondent cannot straightway attach the petitioner's bank accounts.

5. Therefore, there will be a direction to the first respondent to pass a speaking order, and communicate the same to the petitioner, as to the outcome of the documents/evidence

produced by the petitioner on 14.11.2017. Till then, the attachment of the petitioner's bank accounts shall be remain stayed.

6. With the above direction and observations, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dna/sd
To

1. The Income Tax Officer
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Thousand Light,
Chennai 24.
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5. The Branch Manager
YES Bank, Nungambakkam Branch
Chennai 34.

+1cc to Mrs.Hema Muralikrishnan, Advocate in sr.92395
+1cc to Mr.D.Vijayakumar, Advocate in sr.92341

Writ Petition No. 33800 of 2017

CS/09/01/18