IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 230 OF 2018

Shri Dutt India Pvt. Ltd. ..Petitioner
versus
The Commissioner of Goods and
Services Act (VAT) Maharashtra & Anr. ..Respondents

Ms Nikita Badheka with Mr. Parth Badheka for Petitioner.
Mr. Himanshu Takke – AGP for State.

CORAM: S. C. DHARMADHIKARI &
SMT. BHARATI HARISH DANGRE, JJ.

DATE : 23RD JANUARY, 2018

P. C. :

1] It is stated that there is an attachment levied on the bank account of the petitioner though the petitioner is not an assessee in default. The petitioner is also not a debtor owing any sum in money to the assessee in default. In fact, the petitioner has to recover huge amounts from the dealer / assessee in default. Therefore attachment levied to the extent now and so as to recover the amount of tax, interest and penalty from the assessee in default but on petitioner's bank account is unjustified, illegal and in utter breach of the principles of natural justice.

2] After having heard both sides, we find that there are disputed questions of fact. We do not know what would be the impact and legal consequences of an *inter se* arrangement between the petitioner and the dealer / assessee in default. We do not know the nature of the transaction. In our limited writ jurisdiction, we do not wish to go into this factual dispute. It would be for the petitioner to convince the Joint Commissioner of Sales Tax who it is now stated by the learned AGP would hear them and pass a speaking order.

3] We have taken note of the serious grievance of the petitioner that before any coercive measures were taken they had no opportunity to represent or put forward their version and case before the Authorities under the Maharashtra Value Added Tax Act, 2002. Once the Joint Commissioner of Sales Tax has agreed to grant a personal hearing to the petitioner and pass a speaking order then all that we direct him is to pass this order as expeditiously as possible and within a period of one week from the conclusion of the hearing. The petitioner has agreed to appear before him on 24th January 2018 at 11.00 a.m. The Joint Commissioner shall comply with our directions and without seeking any extension of time, he shall pass a speaking order without being influenced by any earlier action including the warrant of attachment or the contents thereof.

4] The writ petition is disposed of by clarifying that this Court has not expressed any opinion on the rival contentions.

(SMT. BHARATI H. DANGRE, J.) (S. C. DHARMADHIKARI, J.)

Chandka