

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 13356 of 2019
and
W.M.P. No. 13469 of 2019

M/s. Jai Mahavir Textiles
Rep by its Proprietor
Mr. Ashok Kumar Nahar
No. 184/158, Angappa Naicken Street
Mannady, Chennai - 600 001.

... Petitioner

Vs.

1. The Manager
Karur Vysya Bank
Chennai Main Branch
No. 46, Jeevan Marina
Armenian Street
Chennai - 600 001.
2. The Assistant Director
Directorate of Enforcement
Chennai Zonal Office
2nd and 3rd Floor
No. 84, Greams Road
Chennai - 600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorari, by calling for the records of the impugned letter dated 04.04.2019 of the First Respondent issued in F. No. 1153/General/105/2018-2019 and quash the same.

For Petitioner : Mr. Hari Radhakrishnan

For Respondents: Mr. H. Vijayakumar (For R1)
Mr. N. Ramesh (For R2)
Central Government Standing Counsel

O R D E R

The Petitioner is having Current Account bearing No. 1153-1350-0000-4460 with the First Respondent. The Second Respondent had issued an order dated 05.09.2017 requesting the First Respondent not to allow any debit transaction in that account without the knowledge of that Directorate as it was under scrutiny for investigation under the provisions of the Foreign Exchange Management Act, 1999 [hereinafter referred to as 'FEMA Act' for short].

2. In that backdrop, the Petitioner had earlier filed the Writ Petition in W.P. No. 8025 of 2018 against the Second Respondent without impleading the First Respondent as a party thereto for declaring that the act of the Second Respondent in continuing the seizure and attachment of that account maintained by the First Respondent was illegal and without authority of law. This Court in the order dated 07.03.2019 in that Writ Petition recorded the submissions made by the Learned Counsel for the Second Respondent that the account of the Petitioner was not frozen and the First Respondent was requested only not to allow any debit transactions without the knowledge of that Directorate.

3. It is complained by the Petitioner that despite the aforesaid clarification made in the aforesaid order passed by this Court, the First Respondent by order dated 04.04.2019 had informed the Petitioner that since there is no specific direction from this Court in W.P. No. 8025 of 2018, the attachment fixed in the account cannot be removed and that the account will be changed to 'no debit' status only on the receipt of relevant direction from the Second Respondent, and this Writ Petition has been filed challenging the aforesaid order dated 04.04.2019 issued by the First Respondent.

4. The Second Respondent has filed Counter Affidavit dated 19.11.2019 in this Writ Petition stating that the First Respondent may entertain any debit transaction in the aforesaid account of the Petitioner only upon securing specific instructions from the Second Respondent till the investigation under the provisions of the FEMA Act against the Petitioner are completed.

5. In view of the aforesaid statement made by the Second Respondent, the First Respondent shall permit debit transactions in the aforesaid account of the Petitioner only after obtaining specific permission from the Directorate of the Second Respondent till the Second Respondent informs the First Respondent that the investigation against the Petitioner under the provisions of the FEMA Act has been completed.

6. The Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

may a

To

1. The Manager
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2. The Assistant Director
Directorate of Enforcement
Chennai Zonal Office
2nd and 3rd Floor, Murugesu Naicken Complex
No. 84, Greaves Road
Chennai - 600 006.

+1 CC to M/s. Hari Radhakrishnan, Advocate sr 97300.

+1 CC to Mr.N. Ramesh, Advocate sr 98117.

W.P. No. 13356 of 2019

BP(CO)

SP(09/12/2019)