

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28189 of 2019

Nitesh Jain Mangal Chand

...Petitioner

Vs.

The Senior Intelligence Officer,
Directorate General of Goods and Service Tax Intelligence,
Chennai Zonal Unit,
C-3, C-Wing, Rajaji Bhavan,
Besant Nagar, Chennai - 600090.Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in F.No.INV/DGGI/CZU/GST/95/2018/6483 dated 03.09.2019 and quash the same, consequently direct the respondent to provide the copies of all the statements recorded from the petitioner as well as to provide the copies of all the documents that were seized from the premises of the petitioner during the inspection.

For Petitioner : Mr.K.Senguttuvan

For Respondent : Mr.V.Sundareswaran
Standing Counsel

ORDER

The petitioner is aggrieved against the proceedings of the respondent dated 03.09.2019, rejecting the request of the petitioner to furnish copies of the documents seized from the petitioner's premises.

2. The case of the petitioner in short is as follows :-

The petitioner is the Proprietor of M/s. Maa Osiya Corporation having its registered office at No.9/NA, KTR Layout, Thally Road, Hosur, Krishnagiri District, Tamil Nadu - 635109 engaged in the business of manufacturing aluminium frames, etc,. The officials of the respondent searched the business premises of the petitioner as well as his residence on 24.01.2019 for the

alleged offence of bill trading activity. During the search, various documents and electronic devices were seized and are taken into the custody of the respondent. The petitioner requested for the copies of the documents being seized and however, the same was denied. The petitioner was taken into custody on 25.01.2019 and was made to sign various statements that were prepared by the officials. He was arrested on 26.01.2019 and remanded to judicial custody on the same day. By order dated 09.03.2019 of this Court, the petitioner was granted bail. The petitioner has appeared before the respondent on various dates. During his personal appearance, the petitioner was made to sign on various documents/statements that were prepared by the respondent themselves. Though, no copies were provided to the petitioner, he was specifically instructed to mention as if he has received the copies. The petitioner made a representation on 02.07.2019 seeking for the copies of the statement that were recorded from the petitioner and the signatures were obtained. Since the copies of the statements/documents were not provided, the petitioner approached this Court and filed W.P.No.23547 of 2019 and sought for the direction to the respondent to provide the same. This Court, by order dated 14.08.2019, directed the respondent to dispose of the representation of the petitioner dated 02.07.2019. Consequently, the present impugned order is passed.

3. A counter affidavit is filed by the respondent, wherein it is stated that the statements deposed by the petitioner are all voluntary and that the allegations that it was solely prepared by the respondent was baseless. In respect of the request regarding furnishing copies of the documents seized from the residence of the petitioner, it is contended by the respondent that the same cannot be provided as of now, as the investigation is still going on and providing the copies of documents will prejudice the investigation, particularly, in the light of the fact that the petitioner's employees Shri M.Thiyagarajan and Shri Harish and his father Shri Mangal Chand Champa Lal have not honored several summons issued. It is further stated that handing over the copies of the documents will hamper the investigation.

4. The learned counsel appearing for the petitioner submitted that unless the copies of the documents are provided to the petitioner, he will not be in a position to defend the case/allegations leveled by the respondent against the petitioner.

5. On the other hand, the learned standing counsel appearing for the respondent submitted that the matter is still at the investigation stage and therefore, furnishing the copies of the documents to the petitioner will hamper the investigation. He

also pointed out that the employees of the petitioner have not honored the summons issued to them to appear. Therefore, he contended that the request of the petitioner cannot be considered at this stage.

6. Perusal of the above stated facts and circumstances would show that certain documents were seized from the premises of the petitioner during the search conducted by the officials of the respondent. The petitioner seeks for copies of those documents. It is not in dispute that the matter is still under the investigation stage and therefore, as rightly pointed out by the learned counsel appearing for the Revenue, furnishing of copies of the documents at this stage, will certainly hamper the investigation. At the same time, pursuant to the conclusion of the investigation, when the proceeding goes to the next stage of issuing show cause notice to the petitioner, it is needless to say that the documents that are to be relied by the Revenue in the said show cause notice are necessarily to be furnished to the petitioner so as to enable him to defend his case in an effective manner. Therefore, when such stage has not come so far, this Court, is of the firm view that the prayer sought for in the present writ petition is highly premature. Accordingly, granting liberty to the petitioner to seek for such of those documents which are relied on by the Revenue for issuing show cause notice, this writ petition is disposed of as the prayer sought for in the writ petition is premature. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To
The Senior Intelligence Officer,
Directorate General of Goods and Service Tax Intelligence,
Chennai Zonal Unit,
C-3, C-Wing, Rajaji Bhavan,
Besant Nagar, Chennai - 600090.

+lcc to Mr.V.Sundareswaran, Advocate, S.R.No. 96117

+lcc to Mr.K.Senguttuvan, Advocate, S.R.No. 96506(18/12/2019)

W.P.No.28189 of 2019

SJ(CO)

GN(17/12/2019)