IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7811 of 2020
and
W.M.P.Nos.9215 & 9216 of 2020

M/s.Shree M.Revathi Printers
Represented by its Proprietor V.Mohan Raj
No.1, Chennai-Bangalore NH Road,
Govardan Nagar, Sriperumpudur,
Kancheepuram - 602 105. ... Petitioner

vs

1. The Deputy Commissioner
   Ministry of Finance, Department of Revenue
   Government of India
   Office of the Deputy/Assistant Commissioner of GST
   and Central Excise, Sriperumpudur Division
   Chennai Outer Commissionerate
   C-48, TNHB Building, Anna Nagar,
   Chennai-40.

2. The Branch Manager
   M/s.HDFC Bank Ltd.,
   No.84A, Bangalore High Road
   Sriperumpudur, Kancheepuram District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in DIN No.20200259XL00007VC210 C.No.IV/16/32/2020 dated 28.02.2020 passed by the 1st respondent and quash the same and consequently, direct the respondents to de-freeze the petitioner's bank account.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents: Mrs.R.Hemalatha
standing counsel for R1
Mr.C.Mohan,
for M/s.King & Patridge, for R2

O R D E R

This matter is taken up for hearing through Video Conferencing mode.

2. This writ petition is filed challenging the proceedings of the first respondent dated 28.02.2020, attaching the bank account of the petitioner maintained in the second respondent Bank for realising the tax dues amounting to a sum of Rs.83,58,962/-.

3. The grievance of the petitioner is that in view of the present lock down situation due to COVID-2019, the petitioner is not in a position to run the business and therefore, they are not in a position to settle the dues immediately.

4. Mr.S.Ilamvaludhi, learned counsel for the petitioner submitted that the petitioner is not disputing their liability to pay the amount due, but they only seek some time for making payment. He has also submitted that since the bank account is attached, the petitioner is not in a position to run the day-to-day life even to pay salary to the employees.

5. When the matter was taken up for hearing in the last occasion, the learned counsel for the petitioner submitted that the petitioner will pay the entire dues, if 6 months time is granted.

6. Accordingly, the petitioner also filed an affidavit dated 20.07.2020, giving an undertaking that if 6 months time is granted, the petitioner will be in a position to settle the dues, due to the first respondent. The operative portion of the affidavit at Paragraph Nos.5 & 6 reads as follows:

> "5. I respectfully submit that I have given an undertaking that if six months time has been granted to me that I will be in a position to settle the GST dues, due to the 1st respondent to that effect I was directed to file an affidavit.
>
> 6. I respectfully submit that and I solemnly affirm within six months from the date of the order of this Hon'ble High Court I will once for all settle the GST dues, due to the 1st respondent the calculation of arrears of GST dues payable by me to the 1st respondent narrated below:

GST Due	:	Rs.83,58,962/-
Deducted from the petitioner's Bank account:		Rs.12,45,662/- (deducted on 15.04.2020)
Balance due amount	:	Rs.71,13,300/- "

7. Mrs.R.Hemalatha, learned standing counsel for the first respondent, on the other hand, submitted that payment of admitted dues of the petitioner cannot be delayed, as the impugned proceedings was issued only when the petitioner defaulted in paying the said admitted dues.

8. It is stated that after making attachment, the first respondent has deducted a sum of Rs.12,45,662/- from the bank account of the petitioner maintained in the second respondent Bank. Now, the petitioner wants to make the balance payment within 6 months as stated supra. Considering the present COVOID-2019 pandemic situation and the continuous lock down and that the loss of business is not only to the petitioner but to various people, this Court is of the view that some indulgence can be shown to the petitioner so that they can have a breathe by dealing with their account, more particularly, when they have given an undertaking to settle the dues within a period of 6 months. At this juncture, it is to be noted that the bank has already deducted a sum of Rs.12,45,662/- out of the petitioner's bank account.

9. Considering all these facts and circumstances, this Court is of the view that the following order will protect the interest of both parties.

10. Accordingly, this Writ Petition is disposed of, with the following directions:

(a) The petitioner shall pay the balance due amount within 6 months from today to the first respondent.

(b) If the petitioner fails to make full payment within the above stipulated period, it is open to the first respondent to resort to the remedy available under law to recover the said amount.

(c) In view of the undertaking given by the petitioner as stated supra, the first respondent is directed to de-freeze the bank account maintained by the petitioner in the second respondent bank forthwith.

(d) Insofar as the interest claim if any, it is open to the first respondent to issue fresh proceedings to the petitioner and if any such proceedings is issued, it is open to the petitioner to agitate against the same in the manner known to law.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mk/vri

To

1. The Deputy Commissioner
   Ministry of Finance, Department of Revenue
   Government of India
   Office of the Deputy/Assistant Commissioner of GST
   and Central Excise, Sriperumpudur Division
   Chennai Outer Commissionerate
   C-48, TNHB Building, Anna Nagar,
   Chennai-40.

2. The Branch Manager
   M/s.HDFC Bank Ltd.,
   No.84A, Bangalore High Road
   Sriperumpudur, Kancheepuram District.

+1cc to Mrs.R.Hemalatha, Advocate SR.No.25013

W.P.No.7811 of 2020

pvs(CO)
GMY(27/07/2020)