IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.1232 of 2021
and
W.M.P.No.1385 of 2021

(Through Video Conferencing)

Panda Garment Exports (India) Pvt. Ltd.,
Represented by its Managing Director,
Gurusamy,
518/2, Poosari Palayam,
Chengapalli – 638 812.
Tirupur District. ... Petitioner

Vs.

1. The Assistant Commissioner (ST),
O/o The Assistant Commissioner (ST),
Chennaimalai Assessment Circle,
No.300, Bhavani Road,
Perundurai.

2. The Manager,
Indian Bank,
83, Court Street,
Tirupur – 641 601. ... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the files of the first respondent in TIN 33292922154/2011-2012, dated 25.09.2020 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Seeniappan

For First Respondent : Mr.Richardson Wilson
Additional Government Pleader

O R D E R

The petitioner a private limited has challenged the impugned attachment order dated 25.09.2020 in TIN

33292922154/2011-2012 sent to the second respondent Indian Bank for attaching the petitioner's bank account in respect of dues of M/s.Panda International, to which, the petitioner's Director Thangavelu was also the proprietor.

2. It is submitted that the proprietary concern and the private company are two different entity under the provisions of the TNGST Act, 1959 and therefore, for the arrears of tax of M/s.Panda International represented by its sole proprietor Thangavelu cannot be the basis for attaching the bank account of the petitioner.

3. The learned Additional Government Pleader appearing for the first respondent submits that the proprietor of M/s.Panda International is the Promoter and Director of the petitioner company and was in arrears of tax for the Assessment Year 1995-1996. Therefore, the first respondent was entitled to attach the bank account of the petitioner company with the second respondent bank.

4. By way of rejoinder, the learned counsel for the petitioner submits that the proprietor of M/s.Panda International had earlier filed W.P.No.14307 of 2005. In the said Writ Petition, the assessment order for the Assessment Year 1995-1996 was challenged. It is submitted that the said Writ Petition was dismissed by an order dated 27.07.2016. However, while dismissing the said Writ Petition, time was given to the petitioner therein for filing appeal. It is submitted that an appeal was filed by the said M/s.Panda International and is said to be pending.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first respondent.

6. The direction for attachment of the petitioner's bank account appears to be incorrect as the proprietary concern and the private company are separate entity under the provisions of the Act. The first respondent is not justified in attaching the bank account of the petitioner with the second respondent bank unless the circumstances exist to justify the lifting of the corporate veil before attaching the bank account of the petitioner company with the second respondent bank. This aspect is not forth coming in the impugned order.

7. Therefore, this Writ Petition is allowed with liberty to the first respondent to recover the arrears of tax from the assessee in default in the manner know to law. In case the

circumstances exist for lifting the corporate veil of the petitioner, the first respondent may issue a fresh order of attachment after giving proper reasons for such attachment. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jen

To

1. The Assistant Commissioner (ST),
   O/o The Assistant Commissioner (ST),
   Chennaimalai Assessment Circle,
   No.300, Bhavani Road,
   Perundurai.

2. The Manager,
   Indian Bank,
   83, Court Street,
   Tirupur - 641 601.

+1cc to the Special Government Pleader, S.R.No.68430

W.P.No.1232 of 2021
and
W.M.P.No.1385 of 2021

EV[co]
NSK 12/01/2022