IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10015 of 2021
& WMP No.10642 of 2021

Tvl. Gokul Traders
rep. By its Proprietor
77/22k/10
Opp. To Thathya Ashram,
Hosur - 635 109.

…Petitioner

Vs.

1. The Deputy State Tax Officer (ST),
Hosur (North) - II, Assessment Circle,
Krishnagiri District.

2. The Assistant Commissioner (ST)
Hosur (North) - II, Assessment Circle,
Krishnagiri District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the impugned demand notice in RoC 424/2021/A3 dated 10.03.2021 from the files of the 1st respondent, quash the same.

For Petitioner : Ms.Pooja Chopra
for Mr.Adithya Reddy

For Respondent : Mr.ANR.Jayaprathap
Government Advocate

O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed with the matter finally even at the stage of admission. Hence, by consent of both sides, this Writ Petition is taken up for final disposal even at this stage.

2. The petitioner challenges order of attachment dated 10.03.2021. Learned counsel for the petitioner states that the attachment is made consequent upon an order of assessment dated 17.02.2020, which has been served upon the petitioner only on 30.03.2021 by post.

3. Per contra, learned Government Advocate, upon instructions, would state that the order has been sent by e-mail on the same day. To this, learned counsel for the petitioner would state that only summary was sent by e-mail and not the speaking order, which also is denied by the learned Government Advocate, who would state that both speaking order as well as summary have been duly sent by e-mail.

4. Section 169 of the Central Goods and Services Tax Act, 2017 provides for service of notice in certain circumstances. Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served either by i) giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner ii) by registered post or speed post or courier with acknowledgement due, to the assessee or his authorised representative, if any, at his last known place of business or residence; or iii) by sending a communication to his e-mail address provided at the time of registration or as amended thereafter; or iv) by making it available on the common portal; or v) by publication in a newspaper circulated in the locality in which the assessee is last known to have resided or vi) by affixing it in some conspicuous place at his last known place of business or residence or on the notice board of the office of the concerned officer or authority who or which passed the decision or order in question.

5. Service by e-mail is thus an accepted mode of service and in the present case, I am given to understand by the learned Government Advocate that the order has been served by e-mail. I am not inclined to go into this disputed question of fact, since the petitioner, at this juncture, would state that it wishes to file a statutory appeal challenging order of assessment. The petitioner may do so within a period of four (4) weeks from today in view of the decision of the Supreme Court in a series of judgments, viz., In Re: Cognizance for Extension of Limitation dated 23.03.2020, 06.05.2020, 10.07.2020, 08.03.2021 and M/s.SS Group Pvt. Ltd. V. Aaditiya J. Garg & another (Civil Appeal No.4085 of 2020 dated 17.12.2020) extending the time for filing of appeal till 14.03.2021. Such appeal, if filed within the period as aforesaid, will be taken on file by the Appellate authority without reference to limitation and considered on merits and in accordance with law.

6. As regards the interim relief sought, that is for lifting of attachment of bank account pending appeal, I am not in a position to consider the same, as the details in relation to the balance available in the bank account are not before me. Had the same been produced, there could have been a direction to the authorities to set aside a portion of amount in satisfaction of the dues and permit operation of the bank account. Let the petitioner approach the first appellate authority with an application for interim protection, which may be considered, if and when filed, in accordance with law.

7. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

sl

To

1. The Deputy State Tax Officer (ST),
Hosur (North) - II, Assessment Circle,
Krishnagiri District.

2. The Assistant Commissioner (ST)
Hosur (North) - II, Assessment Circle,
Krishnagiri District.

+1cc to Mr.Adithya Reddy, Advocate SR.No.24601

+1cc to Special Government Pleader SR.No.25047

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& WMP No.10642 of 2021

AK II(CO)

GMY(08/07/2021)