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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.450 of 2017
and W.M.P.Nos.476 & 477 of 2017
and W.M.P.Nos.36607 & 36609 of 2018

M/s.V.D.Swami & Company Pvt Ltd.,
Rep. By its Managing Director,
"VDS House" 41, Cathedral Road,
Chennai 600 086. ...Petitioner

Vs.

1.The Deputy Commissioner of Central Excise & Service Tax
Kota Division,
Central Revenue Buildings, Near CAD Circle,
Kota, Rajasthan 324 009.

2.State Bank of India,
Rep. By Branch Manager,
Anna Flyover Branch,
Chennai 600 006. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Notice under Section 87(b) of the Finance Act, 1994 in ST-13/VDS/AE/80/2015/1567-1568 dated 23.02.20216 or such other Notices issued by the 1st respondent to the 2nd respondent and quashing the same as illegal, arbitrary, perverse and ultravires and further directing the 1st respondent to take action for the service tax and interest dues, if any, strictly in accordance with law by taking action against the defaulting service recipients under Section 87(b) of the Finance Act, 1994 and against the petitioner company only for the balance dues thereafter, if any, after issuing notice and granting an opportunity of hearing to the petitioner herein in accordance with law.

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For Petitioner : Mr.D.Baskar

For Respondents: Mr.K.Ravi (For R1)

Mr.K.Chandrasekaran (For R2)

ORDER

The order impugned dated 23.02.20216 pertaining to the notice under Section 87 (b) of the Finance Act, 1994 is under challenge in the present Writ Petition.

2. At the time of entertaining the Writ Petition at the admission stage, this Court passed an order on 12.06.2017 as under:

> "4. Considering the above stated facts and circumstances, this Court is of the view that it is open to the petitioner to raise all the objections before the 1st respondent, who in turn will consider such objection and pass appropriate orders so as to enable this Court to find out as to whether the impugned attachment notice is sustainable or not. Accordingly, pending disposal of this writ petition, the petitioner is directed to approach the 1st respondent and make their objections in writing within a period of four weeks from the date of receipt of a copy of this order. On receipt of such objection, the 1st respondent will pass appropriate orders on merits and in accordance with law, after hearing the petitioner as well, within a period of four weeks thereafter. Post the matter after eight weeks. Both the parties are directed to stick on to the time schedule fixed by this Court without seeking for any further extension."

3. Pursuant to the interim order, the respondents have considered the grounds raised by the writ petitioner and passed an order on 18.08.2017. Thus, the petitioner is at liberty to redress his grievances if any exist with reference to the subsequent order passed by the respondents in the manner known to law.

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4. With this opportunity, the writ petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Deputy Commissioner of Central Excise & Service Tax
Kota Division,
Central Revenue Buildings, Near CAD Circle,
Kota, Rajasthan 324 009.

2.The Branch Manager,
State Bank of India,
Anna Flyover Branch,
Chennai 600 006.

+1cc to Mr.D.Baskar, Advocate Sr.27977

W.P.No.450 of 2017

kv[co]
srg 22/07/2021

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