BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.04.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.16085 of 2020
and
W.M.P.(MD)Nos.13472 to 13474 of 2020

The Executive Officer
Rep. by its A.Susai Inba Rajesh,
T.Kallupatti Town Panchayat,
Madurai District. ... Petitioner

-Vs-

1. The Commissioner of GST & Central Excise,
O/o. the Commissioner of GST & Central Excise,
Headquarters, Madurai.

2. The Assistant Commissioner of GST and Central Excise,
O/o the Assistant Commissioner of GST Tax and Central Excise,
Madurai-I Division,
No.5, V.P.Ratnasamy Nadar Road, Bibikulam,
Madurai-625 002.

3. The Superintendent of Central Excise,
O/o the Superintendent of Central of Central Excise,
Thirumangalam Range,
Thirumangalam,
Madurai District.

4. The Branch Manager,
Indian Overseas Bank,
T.Kallupatti Branch,
Rajapalayam Main Road,
T.Kallupatti, Madurai-625 702. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the third respondent in his proceedings in O.C.No.13/2020, dated 10.08.2020 and quash the same as illegal.

For Petitioner	: Mr.H.Mohammed Imran for M/s.Ajmal Associates
For R1 to R3	: Mrs.S.Ragaventhre

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for R1 to R3.

2. The petitioner is a local body. The petitioner was liable to pay service tax towards renting of immovable properties. It appears that the adjudicating authority has passed more than one assessment order against the petitioner. Since the amount payable under those orders had not been remitted, the impugned order of attachment came to be passed. As a result, the petitioner's bank account lying with the fourth respondent bank got frozen. Questioning the same, this writ petition has been filed.

3. In Paragraph No.6 of the counter affidavit, the adjudicating authority has stated that the petitioner is liable to pay a total sum of Rs.24,44,383/- towards service tax liability along with appropriate interest and penalty. Since the petitioner is a local body, certainly, relief can be granted in respect of the penalty portion. But then, the petitioner has to necessarily clear the service tax liability together with interest.

4. When the primary orders are not under challenge, I am afraid that I cannot interfere with the consequential recovery action. It is for the petitioner to move the adjudicating authority for appropriate relief.

5. The petitioner's counsel states that the petitioner would pay a sum of Rs.1,00,000/- per month and thus, clear the liabilities. I permit the petitioner to move the adjudicating authority with such a request. It is for the adjudicating authority to pass orders thereon. Of-course, the petitioner is at liberty to challenge the primary order of assessment and certainly, relief would be given to the petitioner as far as the penalty portion is concerned.

6. With these observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

ASSISTANT REGISTRAR (T & P)

/TRUE COPY/

/ /2021

SUB ASSISTANT REGISTRAR(CS-)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
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ES (CO)
SMN : 11/05/2021 : 3P/4C.

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