

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1145 OF 2023

Sanjiv Ved Malik

... Petitioner

Versus

State of Maharashtra & Anr.

... Respondents

Mr. Abhishek A. Rastogi with Aarti Nishad i/b. Sushant Valimbe, for the Petitioner.

Ms. Shruti D. Vyas, 'B' Panel Counsel, for the Respondent – State.

CORAM: G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATED: 31 July, 2023

P.C.

1. Heard Mr. Rastogi, learned Counsel for the petitioner and Ms. Vyas, learned Counsel for the respondent – Revenue.
2. The primary grievance as raised in the petition was to the attachment of three bank accounts of the petitioner as intimated to the HDFC Bank, State Bank of India and Andhra Bank in Form GST DRC – 13 dated 2 December 2022, being a notice to a third person under Section 79(1)(c)(i) of the Maharashtra Goods and Services Tax Act, 2017 (for short 'MGST Act'). Mr. Rastogi has stated that insofar as the HDFC and the State Bank of India Accounts are concerned, the same were permitted to be operated. Thus, only one

bank account has remained to be defreezed namely the account in the Andhra Bank.

3. Ms.Vyas has stated that the show cause notice dated 13 June 2022 was issued to the partnership firm Darshan Sagar Developers of which the petitioner is partner, which was not replied by the petitioner, in his capacity as a partner of the firm. She would submit that as the noticees i.e. the partnership firm and/or partner did not respond to the show cause notice in accordance with the provisions of Section 73 of the MGST Act an order came to be passed on 18 August 2022 whereby the tax payable was determined at Rs.10895158/- for the period from April 2018 to March 2019, where on interest under Section 50 of the MGST Act was determined at Rs.11360018/- and the penalty under Section 73(9) was determined at Rs.1089516/-, totaling to a demand of an amount of Rs.23344692/- which was called upon to be paid by the petitioner vide notice issued to the petitioner under a Form GST DRC-07 dated 18 August 2022.

4. In this view of the matter, we are of the clear opinion that the remedy for the petitioner lies elsewhere as the petitioner who is a partner, if in any manner is aggrieved by the adjudication order and/or demand he needs to take recourse to the remedy as available in law. We accordingly, dispose of this petition, keeping open all the contentions of the petitioner in that regard as also the contentions of the respondents.

5. Insofar as the attachment of the third account is concerned, the same shall be subject to the further order which may be passed in any proceedings which may be adopted by the petitioner.

6. Disposed of in the above terms. No costs.

(JITENDRA JAIN, J.)

(G. S. KULKARNI, J.)