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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.03.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5062 of 2023
and
W.M.P.No.5083 of 2023

M/s.Veerapandi Common Effluents Treatment Plant Ltd.,
Rep. by its Managing Director P.Gandhiraja. ... Petitioner

Vs.

Assistant Commissioner of State Taxes,
Tirupur Rural Circle - II,
Tirupur. ... Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the recovery and quashing recovery action initiated vide letters bearing Ref.No.43/2023/A3 dated 02.02.2023 and 06.02.2023 issued by the respondent.

For Petitioner	:	Mr.G.Natarajan
For Respondent	:	Mr.C.Harsha Raj Additional Government Pleader

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ORDER

The petitioner, aggrieved by the attachment orders dated 02.02.2023 and 06.02.2023 passed by the respondent as per provisions of Section 75 of the Goods and Services Tax Act, 2017 *(Hereinafter referred to as GST Act)* has filed this Writ Petition.

2. Admittedly, the petitioner has not challenged the orders passed by the Appellate Authority which culminated in the issuance of the impugned attachment orders. The petitioner contends that due to non constitution of the Tribunal, till date, the petitioner has not filed any Statutory Appeal before the Appellate Authority as against the orders passed by the Appellate Authority.

3. However, in case of non constitution of the Tribunal, the petitioner is always having the right to file a Writ Petition before this Court. Necessarily, when a Tribunal has not been constituted and that too when attachment orders have been issued, the petitioner ought to have filed a Writ Petition, challenging the impugned orders of the Appellate Authority. Having not done so, the only interim protection that can be granted for the

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petitioner is to give protection in respect of the impugned attachment orders dated 02.02.2023 and 06.02.2023 for a limited period of two weeks to enable the petitioner to approach this Court, challenging the orders of the Appellate Authority dated 31.01.2023 by filing a separate Writ Petition.

4. No prejudice would be caused to any of the parties, if such an interim protection is granted by this Court to enable the petitioner to file a separate Writ Petition challenging the order of the Appellate Authority viz., Deputy Commissioner (ST) GST - Appeal.

5. For the foregoing reasons, this Writ Petition is disposed of by directing the petitioner to file a separate Writ Petition, challenging the order of the Appellate Authority viz., Deputy Commissioner (ST) GST - Appeal, dated 31.01.2023 within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the respondent shall not take coercive steps against the petitioner for enforcement of the impugned attachment orders dated 02.02.2023 and 06.02.2023 for a limited period of two weeks from the date of receipt of a copy of this order. If the petitioner wants protection for a further period, he will have to necessarily seek such a

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protection only in the fresh writ petition to be filed by them.

6. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

01.03.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

Assistant Commissioner of State Taxes,
Tirupur Rural Circle - II,
Tirupur.

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ABDUL QUDDHOSE. J.,

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