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W.P.No.9553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.9553 of 2022

M/s.Sunrise Enterprises,
Rep. By its Proprietor S.Karthikeyan,
44, Teachers Colony, Chinnavedampatti,
Ganapathy, Coimbatore – 641 006.

.. Petitioner

Vs.

1.The Superintendent of GST and Central Excise,
Coimbatore IV Division II Range,
1441, Elgi Building,
Trichy Road,
Coimbatore – 641 018.

2.The Sub-Registrar Singanallur,
Singanallur Sub-Registrar Office,
Vellalore,
Coimbatore – 641 111.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to withdraw the attachments and communicate the same to the 2nd respondent to remove the attachment in the encumbrance Certificate in S.R.No.259/1 and also consequently direct the 1st respondent to either refund the amount of



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Rs.12 lakhs collected illegally or to permit the petitioner to adjust the same.

For Petitioner : Mr.S.Raveekumar

For R1 : Mr.H.Siddarth
Junior Panel Counsel

ORDER

The petitioner has filed this present Writ Petition for a direction to the 1st respondent to lift the order of attachments and communicate the same to the 2nd respondent to remove the attachment in the Encumbrance Certificate in S.R.No.259/1 and also consequently direct the 1st respondent to either refund the amount of Rs.12 lakhs collected illegally or to permit the petitioner to adjust the same against further tax liability.

2.No representation for the 2nd respondent.

3.Heard the learned counsel for the petitioner and the learned Junior Panel Counsel for the 1st respondent.

4.It is noticed that a similar issue was considered by this Court in



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W.P.No.32973 of 2022 in the case of **M.Arul Kumaran, Chairman & Managing Director, M/s.Royal Meridian Impex India Private Limited, New No.100, Old No.4, South West Boag Road, V.Nagar, Chennai – 600 017 Vs. The Joint Commissioner and others.** Vide its order dated 21.12.2022, the Court held that order of attachment passed under CGST Act, 2017, ceases to have effect under Section 83(3) of the said Act.

5.This Court vide its order dated 20.04.2023 has ordered stay in W.P.No.12014 of 2023 in the case of **M/s.Sunrise Enterprises, Rep. By its Proprietor S.Karthikeyan, 44, Teachers Colony, Chinnavedampatti, Ganapathy, Coimbatore – 641 006 Vs. The Superintendent of CGST and Central Excise, Coimbatore II Division, 1441, Trichy Road, Coimbatore – 641 045.**

6.*Prima facie*, the attachment of the immovable property of the petitioner made on 28.01.2021 has to be lifted in the light of Section 83 of the Tamil Nadu Goods and Services Tax Act, 2017.



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7.Considering the above, the Writ Petition is disposed of directing the respondents to take suitable steps in accordance with the law laid down by this Court in **M.Arul Kumaran, Chairman & Managing Director, M/s.Royal Meridian Impex India Private Limited, New No.100, Old No.4, South West Boag Road, V.Nagar, Chennai – 600 017 Vs. The Joint Commissioner and others**. The said exercise shall be carried on by the respondents within a period of 30 days from the date of receipt of a copy of this order.

8.Accordingly, the Writ Petition stands allowed with the above observations. No costs.

19.07.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Superintendent of GST and Central Excise,
Coimbatore IV Division II Range,
1441, Elgi Building,
Trichy Road, Coimbatore – 641 018.



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C.SARAVANAN, J.

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2.The Sub-Registrar Singanallur,
Singanallur Sub-Registrar Office,
Vellalore, Coimbatore – 641 111.

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