IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. No.1450 of 2023
and
C.M.P. No.14061 of 2023

M/s.Sabbs Infra and Security Pvt. Ltd.,
1C, Heritage Arcade (Plot No.900), S.R.Nagar,
Hyderabad - 500 038,
Rep. by its Director,
Mr.Rama Krishna Sabbineni. ... Appellant

Vs.

1.Assistant Commissioner of GST & Central Excise,
Madhavaram Division, Chennai North
Commissioner, Newry Towers,
No.2054, I Block, II Avenue,
12th Main Road, Anna Nagar,
Chennai- 600 040.

2.Additional Commissioner of GST and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. ... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order in W.M.P.No.18117 of 2023 in W.P.No.18869 of 2023 dated 26.06.2023.

For Appellant : Mr.B.Kumar
for Mr.T.R.Ramesh

For Respondents : Mr.Rajendran Raghavan
Senior Panel Counsel

JUDGMENT

The writ appeal is filed against the order of the learned Single Judge in W.M.P.No.18117 of 2023 in W.P.No.18869 of 2023 wherein the garnishee notice seeking to recover service tax and penalty to the extent of Rs.1,13,95,416/- and Rs.1,13,95,416/- respectively for the period from October 2015 to March 2016 apart from penalty of Rs.10,000/- under the Finance Act, 1994, was challenged. The learned Single Judge by way of an interim order on 26.06.2023 in W.M.P.No.18117 of 2023 directed that the attachment of the appellant's bank account would continue and no amount shall be appropriated therefrom by the Respondents.

2. It is the case of appellant that though the garnishee notice refers to the proceedings dated 28.03.2022 apparently made on the appellant under

Section 79(1)(c)(iii) read with Section 142(8)(a) and Section 174 of the Central Goods and Services Tax Act, 2017, however, the same was never served on the appellant. It was only on receipt of the impugned garnishee notice, the appellant came to know about the assessment having been made vide order dated 28.03.2022. When the same was put to challenge in the writ petition, the learned Single Judge in the interim order dated 26.06.2023 had directed that the records be produced including proof of service, and that, the attachment would continue. Therefore, this appeal.

3. The learned counsel for the appellant would now submit that in view of the attachment, the appellant is facing difficulty in operating the bank account and in running their business, including disbursing salary to their employees. Therefore, the learned counsel prayed for an appropriate orders in this appeal.

4. On the above submissions, we have heard Mr.Rajendran Raghavan, learned Senior Panel Counsel appearing on behalf of the Respondents.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel appearing on either side, we are of the opinion that the order of the learned Single Judge shall be modified to the following effect:

> *"The attachment would continue only to the extent of the demand raised in the order dated 28.03.2022 including penalty, and it is open to the petitioner to operate the Bank account in excess of the said amount."*

6. With the above modification, this Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
18.07.2023

Index : Yes/ No
Speaking or Non-Speaking Order
Neutral Citation: Yes/ No
mka

To
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R.MAHADEVAN, J.
AND
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