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W.P.Nos.18609 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.Nos.18609 of 2017 and
W.M.P. No. 20150 and 20151 of 2017
and WMP.No.34530 of 2019

Sky Marketing

Rep. by its Proprietor Mr. Emson Emmanuel

No.11 & 37, Moohambigai Nagar

Pullilyon Village, Madhavaram TK

Chennai - 600 060

... Petitioner

Vs.

1 The Revenue Inspector,
Puzhal Sub-division, Puzhal.

2 The Tashildhar
Puzhal. Tk. Thiruvallur. Dist.

3 The District Collector
Thiruvallur. Dist.
Thiruvallur

4 S.R. Industries,
4/5, Parvathipuram I,
Vadaperumbakkam,
Chennai – 60.

5. N.Vaiyagam
(R5 has been impleaded by this Court
vide order dated 09.08.2023 in
WMP.No.34530 of 2019 in
W.P.no18609 of 2017)

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari, calling for records in the files of the 1st respondent notice dated 14.07.17 issued to recover a sum of Rs.1,23,166/- so for it relates to the petitioner firm and quash the same being illegal, invalid and issued to the wrong person and also violated the principles of natural justice.

For Petitioner : Mr. D. Vijayakumar
For RR 1 to 3 : M.S. Prem Kumar
(Government Advocate)
For R4 : not ready in notice
For R5 : Mr.D.Velu
(impleaded respondent)

ORDER

This petition has been filed seeking to quash the order of the 1st respondent notice dated 14.07.17.

2. The case of the petitioner company is that the petitioner carrying on the business of various varieties of bathroom fixtures and fitting goods. The petitioner is a proprietor firm and registered themselves as a dealer under the TNVAT Act now under GST Act. On 14.07.2017 a person came from the first respondent office affixed a notice. The notice addressed to M/s.S.R. Industries/



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4th respondent herein directed to pay a sum of Rs.1,23,166/- with 12% interest

as per the order of the Commissioner of Workman Compensation. The petitioner surprised and unable to understand why the petitioner company name included with M/s.S.R.Industries. The petitioner started its business in the year 2007 and registered as proprietor firm. There is no legal connection between the said proprietor ship firms except as an Independent trader. Hence, the notice was affixed against a wrong person premises and requested to delete the name mentioned in the recovery notice. But the respondents 1 & 2 have not interested to hear the petitioner explanation but advised to remit the amount within a week. Hence, the writ petition before this Court.

3. The learned counsel for the petitioner submitted that the petitioner has no way connected with the business of the 4th respondent. The petitioner neither a blood relationship with the 4th respondent nor partner relationship. Hence, the revenue notice issued to wrong address and wrong person name mentioned within bracket. Further, they were not a party to the workman compensation proceeding initiated by the employee, who is the 5th respondent herein. The 5th respondent never worked as employee in any manner with the petitioner establishment. Hence, the recovery notice addressed to wrong person



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and hence, the demand notice issued by the first respondent is liable to be set aside.

4. The learned counsel for the 5th respondent submitted that the 5th respondent was working as sweeper with the 4th respondent. When the 4th respondent shifted the place of business from No.47, Woman Industrial Park, SIDCO, Thirumoodivakkam, Chennai to No.4/5, Parvathipuram, Part-I, Vadaperumpakkam, Chennai, while shifting the said materials of the 4th respondent, the petitioner had sustained injury in his right eye during the course of employment on 02.08.2011 at 12.20 P.M. He was admitted in hospital and the same could not be cured completely due to which the 5th respondent unable to do his normal work. Thereafter, the 5th respondent sent a legal notice dated 28.01.2012 to the 4th respondent viz., S.R.Industries (Sky Marketing) to pay compensation of Rs.5 Lakhs for the injuries sustained in the course of employment. In spite of many repeated requests, the 4th respondent has not come forward to pay any amount as compensation. Hence, the 5th respondent approached the Labour Court claiming compensation. The Labour Court, after adjudication, directed the petitioner to pay a sum of Rs.1,23,166/- with 12% interest from 02.08.2011 to the 5th respondent. The 4th respondent



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and the petitioner are the sister concern. However, the petitioner has filed this writ petition without adding the 5th respondent as a party. Hence, the impleading petition has been filed. The Labour Court has rightly passed the impugned order, which cannot be interfered with.

5. The learned Government Advocate submitted that the petitioner and the 4th respondent are one and the same. Before the Labour Court, they specifically mentioned the petitioner company as a party in the W.C. proceedings. Admittedly, the petitioner name was included in the claim petition and the same was not adjudicated before the Labour Court. Further, without challenging the W.C. Proceedings, filing the present writ petition challenging the revenue recovery proceeding, which is not sustainable one.

6. Heard the learned counsel for the petitioner and the learned counsel for the 5th respondent as well as the learned Government Advocate for the first respondent and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the impleading respondent claimed that he was working in S.R.Industries and the said



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company is the sister company of the petitioner. During his employment, the 5th respondent sustained injuries and thereby, he claimed compensation before the Labour Court. After adjudication, the Labour Court awarded a payment to the tune of Rs.1,23,166/- with 12% interest. Pursuant to which, the first respondent has initiated the revenue recovery proceedings against the petitioner. Based on which, the present impugned order has been passed.

8. As rightly submitted by the learned Government Advocate that the petitioner has to challenge the award passed by the Labour Court. Without challenging the said award, the petitioner has filed the present writ petition challenging the revenue recovery proceedings, which is not sustainable one. Hence, the prayer sought for by the petitioner cannot be granted and the same is liable to be dismissed.

9. For the reasons stated, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

09.08.2023

Index : Yes / No
Speaking order / Non speaking order



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Netrual Citation Case : Yes / No

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M.DHANDAPANI, J.



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