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W.P.No. 35712 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.12.2023
CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.35712 of 2023
and
W.M.P.No. 35695 of 2023

M/s.Guntupalli Marble and Granites,
(Represented by its Partner Guntupalli
Venugopala Rao),
No.105, Near Desire Hot Kitchen,
East Coast Road,
Injambakkam, Chennai – 600 115.

... Petitioner

Vs.

1. The Principal District General DGGI,
No.16, Grems Road, BSNL Building,
Tower II, VII Floor,
Chennai – 600 006.
2. The Branch Manager,
IDBI Bank, Neelankara Branch,
Plot No.2, 1st Main Road,
Raja Nagar, Tamil Nadu – 600 041.
3. The Branch Manager,
Kotak Mahindra Bank,
Nasik Thatte Nagar Road Branch,
Shop No.1, Payas, Opp. B.Y.K.College,
Thatte Nagar Road, Nasik, Maharashtra.

... Respondents



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Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the 1st respondent in the impugned provisional attachment proceedings initiated vide Form GST DRC-22 File No.DGGI/INT/MISC/45/2023-Gr W/5801 dated 01.11.2023 and quash the same.

For Petitioner : Ms.Sharnya Vijay K.
for Mr.K.Vaitheeswaran
For Respondents : Mr.Rajnish Pathiyil
Senior Panel Counsel [for R1]

ORDER

This writ petition has been filed challenging the provisional attachment order passed by the 1st respondent dated 01.11.2023, under Section 83 of the Central Goods and Service Act, 2017 (hereinafter referred as the “CGST Act”).

2. With the consent of both the parties, this matter is taken up for final disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the petitioner's bank accounts in (i) IDBI Bank, Neelankarai Branch and (ii)



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Kotak Mahindra Bank, Nasik Thatte Nagar Road Branch have been provisionally attached by an order passed by the 1st respondent herein dated 01.11.2023. Therefore, the petitioner was not able to operate the said bank accounts for the purpose of working capital loan and payment of GST and also for the payment of salaries, GPF, etc., and other dues.

3.1 Further, it is submitted that by virtue of the impugned attachment order, a sum of Rs.6.7 crores lying in the bank accounts of the petitioner has been provisionally attached without quantifying the tax amount. Therefore, unless and until, the bank attachment order is lifted, the petitioner would not be able to pay the tax.

3.2 The learned counsel for the petitioner, in support of the prayer for lifting attachment order has made the following submissions:-

(i) As far as IDBI bank account is concerned, the petitioner may be permitted to utilise the said bank account for the purpose of payment of GST alone.

and



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(ii) As far as operation of Kotak Mahindra bank account is concerned, the petitioner may be permitted to operate the bank account by substituting a bank guarantee to an extent of sum of Rs.5.7 Crores.

3.3 Therefore, the learned counsel prayed for appropriate order of this Court to lift the attachment of bank accounts of the petitioner.

4. Mr.Rajnish Pathiyil, learned Senior Panel Counsel who takes notice for the 1st respondent, after getting instructions from respondent-Department would submit that the petitioner may be permitted to operate the bank account in IDBI Bank only for the purpose of payment of GST alone and not for anything else and with regard to the other Kotak Mahindra Bank account is concerned, he requested this Court to pass orders appropriately.

5. Heard both sides and also perused the materials available on record.

6. In view of the above submissions made on both sides, this Court passes the following order:



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(i) As far as the petitioner's bank account in IDBI Bank, Neelankarai Branch is concerned, the petitioner is permitted to operate the said bank account only for the purpose of payment of GST alone. Therefore, to that extent, the provisional attachment order is ordered to be lifted.

(ii) As far as the petitioner's bank account in Kotak Mahindra Bank, Nasik Thatte Nagar Road Branch is concerned, subject to the petitioner furnishing of the bank guarantee to an extent of sum of Rs.5.7 Crores, the attachment order is ordered to be lifted.

(iii) With regard to operation of IDBI Bank account is concerned, the petitioner is directed to remit a sum of Rs.50,00,000/- out of the balance in IDBI Bank Account with regard to pending GST dues against which the proceedings are pending within a period of two weeks from the date of receipt of a copy of this order.

6.1 Further, this Court directs the respective Banks to follow the above order of this Court in a scrupulous manner and see that this order has been duly complied with.



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7. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Internet: Yes

Index : Yes / No

Speaking order/Non-Speaking order

Neutral Citation : Yes / No

To

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KRISHNAN RAMASAMY, J.

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