09.01.2024
Item No.7
gd/ssd

WPA/2880/2023
with
CAN 1 of 2024
ANUP PERIWAL
VS
STATE OF WEST BENGAL & ORS.

Mr. Bikramaditya Ghosh
Ms. Supriya Singh
..for the petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahman,
Mr. Dilip Kumar Agarwal
..for the State.

This is an application praying for an order restraining the respondent authorities from giving effect to and/or further effect to the garnishee notice which has been served upon the banker of the petitioner seeking to recover an amount of Rs. 44,88,668/-.

Mr. Ghosh learned Advocate appearing for the petitioner submits that after the order dated 3rd January, 2024 has been passed in this writ petition the petitioner came to know from a communication made by his banker that pursuant to a garnishee notice being served upon the Axis Bank at the instance of the respondents, such bank has marked a lien of Rs. 44,88,668/- in the bank accounts of the petitioner.

In course of hearing of this application Mr. Ghosh, learned Advocate for the petitioner submits that the Bank has marked lien in respect of the accounts being no. 912010045631789 standing in the name of Anup Perwal and account no. 920010001905672 standing in the joint names of Neetu Periwal and Anup Periwal.

He further submits that the respondent authorities have already debited a sum of Rs. 17,50,148/- from the Electronic Credit Ledger of the petitioner and in addition thereto a further sum of Rs. 6,64,877.25/- has already been paid by the banker of the petitioner by a Demand Draft to the Commissioner, Sales Tax, West Bengal.

He further submits that the aforesaid sum which has been recovered by debiting the Electronic Credit Ledger and the amount paid by demand draft by the banker of the petitioner is in addition to the statutory deposit made by the petitioner at the time of preferring the statutory appeal under Section 107 of the CGST Act, 2017 and WBGST Act 2017.

Mr. Ghosh submits that the amount debited from the Electronic Credit Ledger as well as the amount paid by the banker by way of demand draft to the Commissioner, Commercial Taxes, West Bengal is in excess of the amount as stipulated under Section 112(8) of the said Act.

He submits that the petitioner may be allowed to operate his accounts and an order be passed directing the stay of operation of the garnishee notice communicated by the respondent authorities to the Axis Bank, SF Road Branch which led to the bank marking lien in the aforesaid accounts of the petitioner.

Mr. Agarwal, learned Advocate for the State, however, does not dispute the fact that the amount debited from the Electronics Credit Ledger as well as paid by way of demand draft is in excess of the amount which the petitioner is required to deposit in terms of Section 112 (8) of the said Act.

Since the amount stipulated under Section 112(8) has been recovered from the petitioner, this Court is of the considered view that the petitioner is entitled to an interim order.

In view thereof, the garnishee notice dated 18th December, 2023 issued by the respondents to the Axis Bank, SF Road Branch which led to marking of lien in the aforesaid accounts of the petitioner is stayed till the disposal of the writ petition.

Petitioner will be at liberty to communicate this order to his banker and upon such communication the banker shall lift the lien in respect of the aforesaid accounts.

CAN 1 of 2024 is disposed of.

(HIRANMAY BHATTACHARYYA, J.)