**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.11157 OF 2024**

M/s Kalokhe Constructions and

Infrastructure LLP .. Petitioner

***Versus***

Union of India & Ors. .. Respondents

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Mr. Nikhil Wadikar a/w Mr. Aditya Sheode a/w Mr. Amit Sheode for the petitioner.
Mr. J.B.Mishra a/w Ms. Sangeeta Yadav a/w Mr. Rupesh Dubey for respondents.

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**CORAM : M. S. Sonak &**
**Jitendra Jain, JJ.**
**DATE: 19 November 2024**

**P.C.:-**

1. Heard learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. The petitioner challenges the attachment notice dated 22 May 2024 and the attachment under the same of the petitioner's HDFC Bank account No. 50200037030215.

4. Mr. Wadikar, who appears with Mr. Aditya Sheode, submits that no order attaching the petitioner's bank accounts was communicated to the

petitioner, and this action was not preceded by even minimum compliance with the principles of natural justice and fair play. He, therefore, submits that the attachment is without jurisdiction and warrants interference.

5. Mr. Mishra pointed out that the record shows that on 4 July 2023, a notice was given to the petitioner intimating discrepancies in the return. Further, by demand notice dated 2 May 2024, the petitioner was informed that on scrutiny of returns filed, it was observed that the output liability was declared in the later months. The invoice details were also furnished. The petitioner was accordingly directed to pay the interest amounting to Rs.2,46,28,162/- before 10 May 2024, failing which, the petitioner was informed that necessary action under Section 79 of the Central Goods and Services Tax Act, 2017 (CGST Act) will be initiated to recover the dues of the government.

6. The record bears the above submissions. Before 10 May 2024, the petitioner neither paid nor protested the demand. Therefore, by the impugned communication dated 22 May 2024, the respondents directed the petitioner's bankers to attach the bank account to facilitate the recoveries.

7. The petitioner protested the attachment only on 29 May 2024, claiming that only Rs.9,76,299/- was payable, not Rs.2,46,28,162/-.

8. We find that the respondent’s action cannot be said to be in gross breach of the principle of natural justice. The petitioner was given a notice about discrepancies and consequent scrutiny. After the scrutiny, the petitioner was informed by a notice dated 2 May 2024 about the liability to pay interest of Rs.2,46,28,162/-. The petitioner was also given a time limit to pay this amount, i.e. before 10 May 2024. The petitioner neither paid nor disputed the payment during this period. The notice clearly stated that if the petitioner fails to pay the amount before 10 May 2024, necessary action would be initiated to recover the government's dues. Accordingly, the necessary action which involved attachment was taken.

9. In this case, learned counsel for the petitioner pointed out that the direction for attaching the petitioner’s bank account was not communicated to the petitioner, and even a copy was not marked for the petitioner. This is a little unfair.

10. When the authorities direct freezing or attachment of bank accounts, the minimum that is expected is that they simultaneously or immediately communicate such a decision to the account holder after such attachment/freezing. A mere direction to the party’s bankers will not be sufficient. In the absence of such communication, it is possible that the parties may have issued cheques that are ultimately not

honoured by the bankers. Employees' salaries may be affected without an opportunity to make some alternate arrangements. Several such complications are likely to arise. Despite several directions issued in earlier cases, the respondents are avoiding such communication. This is improper; in a given case, we may have to consider some action in this regard. For the present, we only reiterate this position and expect compliance as a measure of fairness.

11. In any event, the petitioner has now made a representation on 29 May 2024, and the learned counsel for the petitioner states that the petitioner will file a further response to the notice dated 2 May 2024 within a week from today. We direct the concerned respondent to hear the petitioner and make an order indicating the precise liability to pay interest within 15 days from today. If the petitioner does not file a reply within a week, the respondent should make and communicate a reasoned order based on the representation dated 29 May 2024.

12. The attachment can continue until the order is made and communicated. However, except for the admitted amount of Rs.9,76,299/-, the respondent will not recover any further amount from the petitioner’s bank account. The respondent's order shall govern the further continuance of the attachment after hearing the petitioner.

13. If the order aggrieves the petitioner, the petitioner is at liberty to challenge the same in accordance with the law.

14. The rule is disposed of in the above terms. There shall be no order as to costs. All the concerned to act on the authenticated copy of this order.

**(Jitendra Jain, J.)** **(M. S. Sonak, J.)**