IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11399 OF 2024

Galaxy International ...Petitioner
Versus
Union of India & Ors. ...Respondents

Mr. Brijesh Pathak for Petitioner.
Mr. J.B. Mishra a/w Ms. Sangeeta Yadav for Respondent Nos. 1 and 2.

CORAM : K. R. SHRIRAM &
JITENDRA JAIN, JJ.
DATED : 20th / 21st AUGUST 2024

P.C. :

1. Mr. Mishra is seeking some time to take instructions and file reply. Mr. Pathak states that the bank account has been frozen on 11th July 2024 and despite a representation made on 13th July 2024 (incorrectly typed as 13th July 2022) respondent did not take steps. Mr. Pathak states that it is over a month now his client is suffering from the high handed behaviour by respondent.

Mr. Mishra states that the letter impugned dated 9th July 2024 nowhere mentions that the bank account is frozen.

In view thereof, petitioner is at liberty to operate the bank account and use the money to his credit.

2. Reply to be filed and copy served within two weeks. Rejoinder, if any, to be filed and copy served within a week thereafter.

3. Petition to come up for admission on 23rd September 2024.

<u>On 21st August 2024</u>

4. Today, the matter was mentioned though not listed on board by Mr. Mishra. Since yesterday's order was not signed and uploaded, we entertained Mr. Mishra's oral application.

5. Mr. Mishra states that by a separate order passed on 8th May 2024, petitioner's bank account has been frozen and petitioner has not brought this to the notice of this Court.

6. Mr. Pathak states that petitioner was not aware of any such order and only this morning, when Mr. Mishra handed over a copy of the so called attachment order dated 8th May 2024, that petitioner became aware of such order. Mr. Pathak also states that petitioner had filed an earlier writ petition bearing No.5476 of 2024 which came to be disposed of on 8th July 2024 by the following order :-

> *"1 Counsel states that more than one year has lapsed after the order dated 10th May 2023 was passed to attach the bank account with respondent no.3. As per provisions of Section 83 of the Central Goods and Services Tax Act, 2017, the attachment would lapse.*
>
> *2 Mr. Adik agrees with the position in law as stated by Mr. Lodha and in fact clarified that it is sub-section (2) of Section 83 of the Act to be specific. In view thereof, the order dated 10th May 2023 having lapsed, Mr. Lodha states nothing will survive in this petition.*
>
> *3 Petition accordingly disposed. Respondent no.3 shall act on a copy of this order and de-freeze the account."*

7. Mr. Pathak states if this order dated 8th May 2024 had been passed and communicated to petitioner, respondents should have informed the Court.

8. Ms. Yadav, who is present in Court and who had appeared on 8th July 2024, states that after the order was passed, she was informed by the concerned officer that an order dated 8th May 2024 attaching the bank account of petitioner has been passed. Ms. Yadav states thereafter, she immediately drafted a review petition which after approval from the officers concerned got lodged yesterday, i.e., 20th August 2024.

9. We are rather surprised that respondents, first of all, do not appear to have informed petitioner about the order dated 8th May 2024 and if such an order had been passed and communicated to petitioner, they ought to have informed their advocate, petitioner's advocate and the court when the other writ petition was taken up on 8th July 2024. This only reflects sorry state of affairs in the office of respondents. Because of lack of instructions from the officers of the department, Revenue's advocates are put in a very embarrassing position. Advocates for respondent revenue rely on instructions from the officers and therefore, it was the duty of officers to give proper and correct instructions before the matter is listed.

10. Therefore, we direct the Principal Secretary, Ministry of

Revenue, Government of India to have an enquiry instituted against the officer concerned and if there has been a lapse on the part of the officers in not giving timely instructions to their advocates then (a) to take disciplinary action against the concerned officer and (b) advice all its officers to give timely instructions so that such lapses do not recur.

11. This action is necessary to save the revenue from embarrassment and also from possibly losing a fairly good case that they might have. Of course, we are not passing any judgment on this aspect.

12. In view of this, we are not signing the order that was dictated on 20th August 2024.

13. The Principal Commissioner, Gurugram shall file affidavit in reply bringing all facts on record and also give an explanation on lapses noted above and this affidavit shall be filed and copy served on petitioner by 30th August 2024. No extension shall be granted and if the affidavit is not so filed, we will proceed on the basis that respondents have no objection to the relief sought in this petition being granted. If affidavit is filed, rejoinder shall be filed and copy served by 6th September 2024.

14. Copy of this order shall be immediately forwarded by the Registry to Revenue Secretary, Ministry of Finance, Government of India, New Delhi by speed post.

15. Stand over to 9th September 2024.

(JITENDRA JAIN, J.) **(K. R. SHRIRAM, J.)**