IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.1606, 1608, 1609, 1610 & 1614 of 2024
and
W.M.P.Nos.7884, 7885, 1635, 1639, 1640,
1641, 1643, 1644, 1645, 1646, 1648, 1649 of 2024

G Square Realtors Private Limited (PAN:AAECG9571B),
Represented by its Authorized Signatory Mrs.Sreekala,
Having Registered Office at Flat No.14, Third Floor,
Harrington Apartment No.98,
Harrington Road, Chetpet,
Chennai 600 003.

...Petitioner in all W.P's

Vs.

1. The Assistant Commissioner of Income Tax,
   Third Floor, Investigation Building,
   No.46 (Old No.108), Mahatma Gandhi Road,
   Chennai 34.
2. The Principal Commissioner of Income Tax (INV),
   Chennai Circle 1,
   Chennai 34. ....Respondent Nos. 1 & 2 in all W.P's
3. The Sub-Registrar,
   No.2/92, SH 49, Kazura Garden,
   Neelangarai, Chennai 41.
   ... Respondent No.3 in W.P.No.1606 of 2023
4. The Sub Registrar,
   Pallavaram,
   7th Main Road, New Colony, Chrompet,
   Jameen Pallavaram, Chennai 600 044.
   .... Respondent No.3 in W.P.No.1614 of 2024
5. The Sub-Registrar,
   No.29, South Mada Street,
   Thiruporur, Chennai 603 110.

.... Respondent No.3 in W.P.No.1608 of 2024

6. The Sub-Registrar,
No.21, GST Road, Jaibeem Nagar,
Guduvancherry,
Chennai 603 202

... Respondent No.3 in W.P.No.1609 of 2024

7. The Sub Registrar,
Chennai South Join I
Integrated Commercial Building for
Commercial Taxes and Registrations Department,
Fanepet, Nandanam,
Chennai 600 035. ... Respondent No.3 in W.P.No.1610 of 2024

Prayer in W.P.1606 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent contained in Impugned proceedings under Section 281B of the Income Tax Act, 1961 vide DIN & ORDER No. ITBA/COM/F/17/2023-24/1059587136(1) dated 10.01.2024, quash the same as arbitrary, illegal and in violation of principles of natural justice.

Prayer in W.P.1608 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent contained in Impugned proceedings under Section 281B of the Income Tax Act, 1961 vide DIN and ORDER No. ITBA/COM/F/17/2023-24/1059587226 (1) dated 10.01.2024, quash the same as arbitrary, illegal and in violation of principles of natural justice.

Prayer in W.P.1609 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent contained in Impugned proceedings under Section 281B of the Income Tax Act, 1961 vide DIN and ORDER No ITBA/COM/F/17/2023-24/1059587350(1) dated 10.01.2024, quash the same as arbitrary, illegal and in violation of principles of natural justice.

Prayer in W.P.1610 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent contained in Impugned proceedings under Section 281B of the Income Tax Act, 1961 vide DIN and ORDER No. ITBA/COM/F/17/2023-24/1059587320 (1) dated 10.01.2024, quash the same as arbitrary, illegal and in violation of principles of natural justice.

Prayer in W.P.1614 of 2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st Respondent contained in Impugned proceedings under Section 281B of the Income Tax Act, 1961 vide DIN and ORDER No ITBA/COM/F/17/2023-24/1059587284(1) dated 10.01.2024, quash the same as arbitrary, illegal and in violation of principles of natural justice.

Appearance in all W.P.s'

For Petitioner : Mr.P.H.Arvindh Pandian
Senior Counsel for Mr.B.Amrith Bhargav

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

COMMON ORDER

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the respective impugned provisional attachment orders dated 10.01.2024 passed by the first respondent in terms of Section 281B of the Income Tax Act, 1961 (in short, 'the Act'), the petitioner have filed the present Writ Petitions.

3. Mr.P.H.Arvindh Pandian, learned Senior counsel for the petitioner submitted that, in terms of Section 281B of the Act, the provisional attachment orders dated 10.01.2024 was passed by the first respondent, ordering attachment of certain immovable properties of the petitioner. He pointed out that in terms of Section 281B of the Act, the said attachment would cease to have effect after the expiry of a period of six months from the date of the order made, i.e. 10.01.2024.

He would submit that the said attachment orders were challenged by the petitioner and this Court vide order dated 15.02.2024 granted interim stay, subject to certain conditions and subsequently, the said interim order has been extended from time to time as long as, the effect of the attachment order is in existence. In the present case, the attachment order will be in existence for a period of six months from the date of provisional attachment order dated 10.01.2024 and after expiry of the period of six (6) months, the provisional attachment order would cease to have effect. Therefore, he would submit that once it is ceased to have effect immediately after expiry of six months, unless and otherwise it is extended in terms of *proviso* to Sub-section 2 of Section 281B of the Act. He pointed out that no such order extending the period has been made and hence, virtually, as on date, no attachment order is in existence and the impugned attachment order dated 10.01.2024 has been ceased to have effect by 10.07.2024 itself, i.e. after expiry of six months period in terms of Section 281B of the Act. Taking into consideration of this fact, the learned Senior counsel for the petitioner prays to pass appropriate orders.

4. Ms.A.P.Srinivas, learned Senior Standing Counsel for the respondents would contend that the provisional attachment orders were passed on 10.01.2024 under Section 281B (1) of the Act and the said provisional

attachment orders will be in existence for a period of six months and after that it would cease to have effect. However, he submitted that the respondents have not extended the said provisional attachment orders after expiry of six months period from the date of the said provisional attachment orders dated 10.01.2024. Hence, he would urge this Court to grant liberty and the respondents may be permitted to take appropriate steps to pass appropriate orders in terms of *proviso* to Sub Section (2) of Section 281B of the Act.

5. Heard the learned Senior Counsel for the petitioner as well as the learned Senior Standing Counsel for the respondents and also perused the materials available on record.

6. In the present case, the attachment orders were passed in terms of Section 281B (1) of the Act on 10.01.2024 and the said orders will be in existence for a period of six months in terms of Section 281B(2) of the Act. The respondents are empowered to extend the said provisional attachment orders for further period of two years by virtue of *proviso* to sub-section (2) of Section 281B of the Act. In the present case, admittedly, no such extension order has been passed before the expiry of the original provisional attachment orders dated 10.01.2024. Therefore, the said order would cease to have effect after

expiry of the period of six months from the date of provisional attachment orders dated 10.01.2024. As rightly contended by the learned Senior Counsel for the petitioner, the period of six months from the date of impugned provisional attachment dated 10.01.2024, has been elapsed on 10.07.2024.

7. Admittedly in the present case, after the expiry of six months of original provisional attachment orders in terms of Section 281B(2) of the Act, no further extension was made in terms of *proviso* to Sub-clause (2) of Section 281B of the Act. In the absence of any extension, the original provisional attachment orders dated 10.01.2024, shall cease to have effect after the period of six months, that is, from 10.07.2024 onwards, the said order has been ceased to have effect. Therefore, once the attachment order is ceased to have effect, the question of continuation of provisional attachment orders does not arise unless and otherwise, the Department extends the same in terms of *proviso* to Sub Section (2) of Section 281B of the Act. Admittedly no extension of provisional attachment orders has been made by the respondents. In the absence of extension of provisional attachment orders dated 10.01.2024, the same should ceased to have effect from 10.07.2024 onwards, i.e. after expiry of six months period. Of course, the original interim order granted by this Court, dated 15.02.2024 would continue as long as the impugned provisional attachment

order is in existence. As and when the impugned provisional attachment order got elapsed, automatically, the interim order granted by this Court would cease to operate and hence, the question of continuation of interim order does not arise. Accordingly, the position as on date is clarified that the provisional attachment orders dated 10.01.2024 have been ceased to have effect and consequent to which, there is nothing survives in these Writ Petitions, for further adjudication.

8. Accordingly, these Writ Petitions are dismissed as having become infructuous. No Costs. Consequently, connected Miscellaneous Petitions are closed.

28.10.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
jd
Note: Upload order copy on 29.10.2024.

To
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   Third Floor, Investigation Building,
   No.46 (Old No.108), Mahatma Gandhi Road,
   Chennai 34.
2. The Principal Commissioner of Income Tax (INV),
   Chennai Circle 1,
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<u>Krishnan Ramasamy, J.</u>
jd

W.P.No.1606, 1608, 1609, 1610 & 1614 of 2024

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