IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:**08.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.2737 of 2024

J.Sivasubramanian ... Petitioner

-vs-

Assistant Commissioner of GST and
Central Excise,
Pallikaranai Division,
Chennai South Commissionerate,
692, M.H.U.Complex, GST Nilayam,
Nandanam, Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to lift the attachment of the petitioner's following bank account: (i) State Bank of India Branch : Anna Nagar (Navalpattu), Trichy; Account No:31044377396 and (ii) State Bank of India Branch: Anna Nagar West Branch, Chennai Account No:20021315677 and further to direct the respondent to refrain from recovering the dues payable by M/s.RU Information Technologies Pvt. Ltd. from the petitioner.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.K.Mohana Murali, Senior Standing Counsel

ORDER

The petitioner seeks a direction to the respondent to raise the attachment on two bank accounts of the petitioner.

2. The petitioner was a director of a company called M/s.RU Information Technologies Private Limited. An assessment order dated 28.02.2020 was issued confirming the tax demand of Rs.31,01,304/- against the company for the period from October 2013 to March 2017 under Section 73(2) of the Finance Act, 1994 (the Finance Act). Penalty of an equal sum was also imposed on the company. Separately, penalty of Rs.1,00,000/- each was imposed under Section 78A of the Finance Act against two directors of the company, including the petitioner. After submitting a representation dated 20.09.2023, the present writ petition is filed.

3. Learned counsel for the petitioner pointed out that the penalty of Rs.1,00,000/- which was imposed on the petitioner was paid on 14.07.2023. By contending that the Finance Act, 1994, unlike the TNVAT Act, 2006 or the TNGST Act, 2017, do not impose personal liability on directors of a

private limited company, learned counsel submits that the attachment on the two bank accounts of the petitioner are liable to be raised.

4. Mr.K.Mohana Murali, learned senior standing counsel, accepts notice on behalf of the respondent. Since a representation has been submitted, he submits that the respondent would consider and dispose of the same on merits.

5. In view of said submissions, W.P.No.2737 of 2024 is disposed of by directing the respondent to consider and dispose of representation dated 20.09.2023 after providing a reasonable opportunity to the petitioner and by taking into account the provisions of the Finance Act. Such representation shall be disposed of within a period of one month from the date of receipt of a copy of this order. There will be no order as to costs.

08.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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To

Assistant Commissioner of GST and
Central Excise,
Pallikaranai Division,
Chennai South Commissionerate,
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