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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11553 of 2022
and
W.M.P.Nos.11039 and 11040 of 2022

M/s.Roshan,
Represented by its Partner
Thiru C.M.Abdul Mazeeth ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Chennai – 600 028.

2.The Commercial Tax Officer,
Nandanam Assessment Circle,
Chennai – 600 028. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the first respondent in his Bank Attachment Notice in RC.No.213/2022/A3 dated 23.03.2022 and quash the notice passed therein as illegal and without authority of law as the second respondent can alone has the power to issue Bank Attachment Notice.

For Petitioner : No appearance
For Respondents : Mr.V.Prashanth Kiran
Government Advocate

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ORDER

There is no representation on behalf of the petitioner.

2. This Writ Petition is of the year 2022.

3. The petitioner has challenged the Impugned Recovery Notice in Form GST DRC-13 dated 23.03.2022 for the tax due and payable by the petitioner for the Assessment Years 2008-2009 to 2011-2012.

4. It appears that the petitioner had earlier suffered an adverse Assessment Order dated 30.04.2018 and had filed W.P.Nos.14451 to 14454 of 2018 against the Assessment Order dated 30.04.2018. This Court was pleased to dismiss the writ petitions vide order dated 06.12.2019.

5. Aggrieved by the same, the petitioner has filed a Writ Appeal vide W.A.SR.No.36305 of 2022.

6. Learned Government Advocate for the respondents is present before this Court and submits that the said Writ Appeal has not been numbered till date.

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7. Since the petitioner has not secured any favourable order either from this Court in W.P.Nos.14451 to 14454 of 2018 or before the Division Bench of this Court, there cannot be an embargo on the respondents from proceeding further with the recovery proceedings.

8. Under these circumstances, to balance the interest of the petitioner and the respondents, this Court is inclined to dispose this writ petition by permitting the petitioner to deposit 25% of the disputed tax within a period of thirty days from the date of receipt of a copy of this order.

9. On such deposit being made, the respondents shall keep all the recovery proceedings in abeyance for a period of six months thereafter or till the disposal of the writ appeal in W.A.SR.No.36305 of 2022 which is said to have been filed against the order dated 06.12.2019 in W.P.Nos.14451 to 14454 of 2018.

10. In case the petitioner fails to secure any further relief from the Division Bench of this Court in the proposed writ appeal against the order dated

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06.12.2019 in W.P.Nos.14451 to 14454 of 2021 within such time, the respondents are at liberty to proceed against the petitioner in accordance with law.

11. This Writ Petition is disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

26.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

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Nandanam Assessment Circle,
Chennai – 600 028.

2.The Commercial Tax Officer,
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Chennai – 600 028.

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C.SARAVANAN, J.

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