



W.P.No.10670 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 23.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10670 of 2024
and W.M.P.No.11757 of 2024

Tvl. Maxtile AAC Block,
Represented by its Proprietor,
Mr.Darshan Kumar.R
No.1305/4B, 1306/1B and 2A2,
Kamandodi Village,
Shoolagiri Taluk, Krishnagiri 635 117.

... Petitioner

-vs-

1.State Tax Officer,
Hosur South 2,
Hosur.

2.Sub-Registrar,
Shoolagiri,
Tamil Nadu 635 117.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, directing the first



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respondent to release the attachment of property situated at Survey No.1305/4, 1305/4B, 1306/1B and 1306/2A2, situated in Kamandoddi Village of Shoolagiri Taluk, and further refrain from taking any coercive steps against the petitioner.

For Petitioner : Mr.G.Derrick Sam
for Mr.Adithya Reddy

For Respondent 1 : Mr.T.N.C.Kaushik, AGP (T)

For Respondent 2 : Mr.P.Anantha Kumar, GA (T)

ORDER

By this writ petition, the petitioner seeks a direction for the release of attachment of the immovable properties bearing Survey Nos. 1305/4, 1305/4B, 1306/1B and 1306/2A2 are situated in Kamandoddi Village of Shoolagiri Taluk.

2. An order dated 30.05.2023 was issued against the petitioner by confirming the tax proposal pertaining to the discrepancy



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between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. Such order was carried in appeal before the appellate authority by the petitioner on 24.08.2023. In relation to the filing of such appeal, the petitioner made the requisite pre deposit as per Section 107 of applicable GST enactments. Since the attachment was effected earlier on 22.08.2023, the present writ petition was filed seeking release of such attachment.

3. Learned counsel for the petitioner contends that recovery measures should not be undertaken for a period of three months after the order in original is issued so as to enable the tax payer to file a statutory appeal. By pointing out that the order in original is dated 30.05.2023, learned counsel submits that the appeal was lodged within the prescribed three month period. Since the order of attachment was issued within the said three month period, learned counsel contends that such order is not sustainable.



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4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the first respondent and Mr.P.Anantha Kumar, learned Government Advocate, accepts notice for the second respondent.

5. The petitioner has placed on record the order in original dated 30.05.2023. Proof of filing of the appeal has also been placed on record. From the document at pages 16 to 18 of the typed set of papers, it is evident that the petitioner has made the requisite pre deposit of 10% of the disputed tax demand by remitting a sum of Rs.4,94,956/-. Once such pre deposit is made, under sub-section (7) of Section 107, recovery proceedings in respect of the balance amount shall be deemed to be stayed. In this case, without waiting for the statutory period of three months, an attachment was effected of the petitioner's immovable property. Such attachment is contrary to the statutory prescription and cannot be sustained.



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6. In the above facts and circumstances, W.P.No.10670 of 2024 is allowed by directing the first respondent to release the attachment over the immovable property bearing Survey Nos.1305/4, 1305/4B, 1306/1B and 1306/2A2 and situated in Kamandoddi Village of Shoolagiri Taluk. The second respondent is further directed to delete the entry pertaining to the attachment from the encumbrance certificate relating to the property. These actions shall be completed within a maximum period of *one week* from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.No.11757 of 2024 is closed.

23.04.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

1.State Tax Officer, Hosur South 2, Hosur.

2.Sub-Registrar, Shoolagiri, Tamil Nadu 635 117.

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SENTHILKUMAR RAMAMOORTHY,J

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