IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08..2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.19683 of 2024
WMP.Nos.21552 and 21555 of 2024

Elumalai ... Petitioner

Vs

The Assistant Commissioner (ST)(FAC)
Surappattu Assessment Circle, Chennai-3 ... Respondent

Prayer:- This Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order dated 21.06.2024 in RC.No.127/2024 of the Respondent and to quash the same and consequently to direct the Respondent to defreeze the Petitioner's Saving Bank Account No.777701994043 of ICICI Bank, Ambattur-North Park Street Branch.

For Petitioner : Mr.V.Haribabu

For Respondents : Mr.G.Nanmaran, Special Government Pleader

ORDER

1. This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order dated 21.06.2024 in RC.No.127/2024 of the Respondent and to quash the same and consequently to direct the Respondent to defreeze the Petitioner's Saving Bank Account No.777701994043 of ICICI Bank, Ambattur- North Park Street Branch.

2. The case of the Petitioner is that the wife of the Petitioner is the Proprietrix of M/s.Elumalai Insulation Services and she is the Assessee on the file of the

Respondent and from 2019 onwards, her whereabouts are not known. The Petitioner also gave a missing complaint to the concerned Police. The Respondent sent a notice demanding GST amount to the house of the Petitioner, failing which they will attach the property and the Petitioner also explained his difficulties in paying the amount to the Respondent. However, the Petitioner's bank account was attached and subsequently, a demand notice dated 21.06.2024 was issued in the name of the wife of the Petitioner directing to pay a sum of Rs.41,43,187/- within seven days and on the very same day, without waiting for a reply to the said demand notice, the impugned demand notice dated 21.06.2024 came to be issued by the Respondent, stating that unless the arrears due by the wife with interest and other charges are paid within 15 days, the landed property will be attached. Hence, this Writ Petition has been filed, seeking the relief as stated above.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

4. The learned counsel for the Petitioner would submit that a demand was made by the Respondent for a sum of Rs.41 lakhs and odd towards GST dues and that the Petitioner undertakes to settle the dues and a sum of Rs.2 lakhs was paid by way of a cheque from his account and that the Petitioner agrees to furnish a bank guarantee worth about Rs.45 lakhs to defreeze his account and raise the attachment of the landed property, by setting aside the impugned notice of attachment.

5. The learned Special Government Pleader for the Respondent would submit

that if the Petitioner is willing to give a bank guarantee for the demanded GST amount, the bank account of the Petitioner will be defreezed and that the Respondent will lift the attachment of the property.

6. On considering the materials available on record and the submissions of the learned counsel on either side, it is seen that the wife, who was running the business in her name and liable to pay GST amount, is missing from 2019 and her whereabouts are not known till dae. The Petitioner, who is the husband of the Assessee, came forward to put a quietus to the matter and agrees to settle the issue and undertakes to furnish a bank guarantee worth about Rs.45,00,000/- (Rupees forty five lakhs only) towards the tax demand of Rs.41 lakhs and odd minus Rs.2 lakhs already paid by way of cheque= Rs.39 lakhs and odd. In such case, the interest of the Respondent would also be protected.

7. In such circumstances, the Petitioner is directed to furnish a bank guarantee for a sum of Rs.45,00,000/- (Rupees forty five lakhs only) in favour of the Respondent towards tax dues within a period of two weeks from the date of receipt of a copy of this order. On such bank guarantee being furnished within the said period, the Respondent is directed to defreeze the bank account of the Petitioner and lift the attachment of the property within a period of one week from the date of receipt of the bank guarantee.

8. The Petitioner being the husband, who is carrying on the business on behalf of his wife/assessee and also due to missing of his wife from 2019 and also in view of the fact that the Petitioner as her husband would inherit all the

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properties of his wife, the Petitioner will have interest in the subject dispute to resolve the dispute in the capacity as a person carrying on the business of his wife. The Petitioner can very well file an appeal before the Appellate Authority concerned for adjudicating the matter.

9. It is also made clear that until completion of the entire proceedings, the Petitioner has to keep alive the bank guarantee and in the event of expiry of the bank guarantee, one week before the expiry of the same, the Petitioner is supposed to extent the bank guarantee and in the event of failure to extend the bank guarantee within five working days before expiry of the bank guarantee, it is open to the Respondent to encash the same

10. With the above directions and terms, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

07.08..2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To

The Assistant Commissioner (ST)(FAC)
Surappattu Assessment Circle, Chennai-3

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