IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.36954 of 2024
and
W.M.P.Nos.39901& 39904 of 2024

VGP Golden Beach Resorts Limited,
5/159, East Coast Road,
Injambakkam, Chennai 600 115. ... Petitioner

Vs.

1. The Deputy State Tax Officer,
   Sholinganallur Assessment Circle,
   Integrated Commercial Taxes Building,
   Room No,241, 2nd Floor, Nandanam,
   Chennai 600 035.

2. The Assistant Commissioner,
   Sholinganallur Assessment Circle,
   Integrated Commercial Taxes Building,
   Room No,241, 2nd Floor, Nandanam,
   Chennai 600 035.

3. The Manager,
   The Tamilnadu Mercantile Bank Ltd.,
   No.3, Thiruvalluvar Salai,
   Thiruvanmiyur, Chennai 600 041. … Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent in GSTIN : 33AAACV3002G1Z0/2018-19 along with impugned order in DRC-07 in Ref.ZD330724073959S dated 05.07.2024, consequential Bank Attachment in GSTIN : 33AAACV3002G1Z0 along with DRC-13 dated 06.11.2014 issued by the 2nd respondent and quash the same as per law laid down by this Court in the case of Pushpam Reality vs. State Tax Office in W.P.Nos.27651, 27654 & 27657 of 2024 dated 04.02.2022 and further direct the 2nd respondent to defreeze the Bank Account with the third respondent .

For Petitioner : Mr.P.V.Ravikumar

For Respondent : Mr.Prasanth Kiran
Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order in Ref.ZD330724073959S passed by the first respondent dated 05.07.2024 and consequently direct the 2nd respondent to defreeze the bank account.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of Hotel and Resorts. During the relevant period, the petitioner filed its return and paid the appropriate taxes. While scrutinizing the petitioner's return, several discrepancies were noticed.

Subsequently, a notice was issued to the petitioner in Form ASMT 10 on 07.12.2021, followed by a reminders dated 12.12.2022 and 11.04.2024. However, the petitioner had neither filed its reply nor paid the tax. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was unable to participate in the adjudication proceedings. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

4. The learned counsel for the petitioner would then place reliance upon the recent judgment of this Court in the case of ***M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024***. It was further submitted

that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Government Advocate (T) appearing for the respondents does not have any serious objection.

5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this order. The impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks from the date of receipt of a copy of this order, the impugned order shall stand revived.

It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of two weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

Index	:	Yes/No
Speaking Order	:	Yes/No
Neutral Citation	:	Yes/No

kkd

To:

1. The State Tax Officer,
Pallavaram: Tambaram: Chengalpattu,
III Floor, Room No.345,
Integrated Regn.Commercial Taxes Building,
Nandanam, Chennai 600 035.

J.SATHYA NARAYANA PRASAD,J.

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2. The Deputy Commissioner (ST) (FAC),
   Tambaram Zone,
   4th Floor, Room No.422,
   PAPJM Building,
   No.1, Greams Road,
   Chennai 600 006.

3. The Branch Manager,
   Indian Bank,
   No.10, Bashyam Street, Radhanagar,
   Chrompet, Chennai 600 044.

W.P.No.36954 of 2024

10.12.2024