IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

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

Writ Petition No.36863 of 2024
and
W.M.P.Nos.39818, 39821 & 39823 of 2024

HRB Boarding and Lodging Private Limited,
with Trade Name : Raaj Bhavan Clarks Inn,
Rep.by its Managing Director, ... Petitioner

Vs.

1. The Deputy State Tax Officer,
(Formerly known Deputy Commercial Tax Officer),
Valluvarkottam : Central-III, Chennai Central,
No.1,6th Floor, Papjm Annexure Building,
Greams Road,Chennai 600 006.

2.The Deputy Commissioner (ST),
Chennai-Central – III,
No.1, Greams Road, Chennai 600 006.

3.The Branch Manager,
HDFC Bank,
No.40, Nungambakkam High Road,
Chennai 600 034. … Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records records in Reference

Number : ZD33042425067oP/2018-19 dated 30.04.2024 on the file of the 1st respondent and quash the same and consequently to direct the 2nd respondent to lift the bank attachment by attachment notice in GST DRC-13 dated 18.11.2014 bearing GSTIN : 33AADCH2385M3ZC/2024-25 (3 PAN mentioned in attachment notice) on the file of the 1st respondent.

For Petitioner	:	M/s.V.Vijayalakshmi
For Respondent	:	Mr.Prasanth Kiran Government Advocate (T)

O R D E R

The present writ petition has been filed challenging the impugned order passed by the first respondent bearing Reference No: ZD33042425067oP/2018-19 dated 30.04.2024.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of Running Hotel with Restaurant services (Boarding & Lodging) and allied and it is registered under the GST Act.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form GST DRC 01A was issued on 19.01.2024 to the petitioner .Subsequently, the 1st respondent had issued a Summary of Show Cause Notice in Form GST DRC-01 on 30.01.2024 followed by reminders on 27.02.2024. Thereafter, reply was filed by the petitioner on 04.03.2024 and the same was uploaded in the Web portal. Subsequently, the first respondent had issued reminders on 20.03.2024 and 22.04.2024 and the petitioner's authorized person did not attend the personal hearing due to illness of Managing Director of the company. The learned counsel for the petitioner submitted that the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. Hence, the impugned order came to be passed on 30.04.2024. Based on the impugned order of the first respondent, the second respondent had proceeded to issue a Statutory demand notice in Form -DRC-13 dated 18.11.2014 for recovery of Arrears of Tax to the third respondent by freezing the Bank Accounts maintained in respect of the petitioner-registered taxable person.

4. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the discrepancy.

5. 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.

6. The learned Government Advocate appearing for the respondent submits that he has no serious objection.

7. In view thereof, the impugned order dated 30.04.2024 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 restored. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Government Advocate appearing for the respondents does not have any serious objection.

8. 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

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J.SATHYA NARAYANA PRASAD,J.

kkd

To:

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