IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.36151 of 2023
and
W.M.P.Nos.36116, 36117, 36119, 36120, 36122 of 2023

Youngmen's Christian Association (YMCA),
Rep.by its General Secretary Mr. Asir Pandian P,
No.24/223, N.S.C Bose Road,
Parrys, Tamil Nadu, Chennai – 600 001. … Petitioner

Versus

1.The Assistant Commissioner (ST)(FAC),
NSC Bose Road Assessment Circle,
Zone-1. Chennai, Tamil Nadu – 600 003.

2.The Deputy Commissioner (ST),
GST Appeal, Chennai – I,
PAPJM Annexe Building, III Floor,
Greams Road, Chennai, Tamil Nadu – 600 006.

3.Axis Bank,
Rep.by its Branch Manager,
Kilpauk Branch,
Symphony Palace, No.450/744,
Poonamallee High Road,
Kilpauk, Chennai – 600 01.

4.Bank of Baroda,
Rep.by its Branch Manager,
Purasaiwakkam Branch,
No.80, Ritherdon Road,
Chennai – 600 012.

5.Central Bank of India,
Rep.by its Branch Manager,
Broadway Branch,
165, ALC Complex, Broadway,
Chennai, Tamil Nadu ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the impugned recovery notice dated 15-12-2023 with the reference GSTIN 33AAATY0296N1Z1/2018-19 in the files of the First Respondent, quash the same, and further direct the First Respondent to withdraw the bank attachment notices dated 19-12-2023 with the reference 33AAATY0296N1Z1/2023 issued pursuant to the impugned recovery notice dated 15-12-2023 on the files of the First Respondent.

For Petitioner : Mr. S. Ramamurthy

For Respondents : Ms. Amirtha Poonkodi Dinakaran,
Government Advocate (for R1 & R2)

: Mr. O.S. Karthikeyan (for R3)

ORDER

This Writ Petition was filed challenging the recovery notices dated 15.12.2023 and seeking further direction to withdraw the Bank attachment notices dated 19.12.2023.

2. Pursuant to the conditional order of this Court dated 23.02.2024, the petitioner has filed an affidavit dated 22.03.2024. Annexed thereto is Form GST DRC-03 indicating that a sum of Rs.1,24,38,000/-, which represents 20% of the disputed tax demand of Rs.6,21,90,000/-, was deposited. The relevant paragraph No.15 (a) to (d) of the affidavit dated 22.03.2024 are set out below :-

> *"(15) I state that in light of the facts and circumstances of the case as stated hereinabove and in the interests of equity and justice, the petitioner prays to this Hon'ble Court that:*
>
> *(a) The deposit of the sum of Rs.1,24,38,000/- (20% of the disputed tax demand of Rs.6,21,90,000/-) shall be deemed to be in satisfaction of the stipulation in Section 112(8) of the Act.*
>
> *(b) The Petitioner be conferred with the protection under Section 112(9) of the Act which states that the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the*

appeal by the Appellate Tribunal.

(c) The Petitioner undertakes to file an appeal before the Appellate Tribunal under Section 112 of the Act as against the Order-in-Appeal dated 30-11-2023 passed by the Second Respondent. In accordance with Circular No.132/2/2020-GST dated 18.03.2020 (Paragraph 4.2), such appeal would be filed within three months from the date on which the State President of the Appellate Tribunal enters office.

(d) The Hon'ble Court may be pleased to quash the impugned recovery notice dated 15-12-2023 and issue directions to the First Respondent to forthwith lift the bank attachment orders issued pursuant to the recovery notice dated 15-12-2023."

3. By taking note of the affidavit and Form GST DRC-03, W.P.No.36151 of 2023 is disposed of on the following terms:

(i) The deposit made by the petitioner satisfies the requirements of Section 112(8) of the Tamil Nadu Goods and Services Tax Act, 2017. Consequently, there shall be an interim stay of recovery proceedings pursuant to the impugned order until the statutory appeal of the petitioner is disposed of.

(ii) Such statutory appeal shall be filed by the petitioner within a maximum period of three months from the date on which the State

President of the Appellate Tribunal assumes office.

(iii) The impugned recovery notice dated 15.12.2023 is quashed by leaving it open to the respondents to issue a fresh recovery notice if the petitioner's appeal is rejected.

(iv) Consequently, the bank attachment notices are also quashed and the attachments are raised.

(v) There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

22.03.2024

Index : Yes
Speaking Order : Yes
Neutral Citation Case : Yes
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To
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SENTHILKUMAR RAMAMOORTHY, J.,

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