PPN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PRACHI PRANESH NANDIWADEKAR
Digitally signed by PRACHI PRANESH NANDIWADEKAR
Date: 2025.06.27 15:08:41 +0530

WRIT PETITION NO. 11399 OF 2024

M/s. Galaxy International … Petitioner

Versus

Union of India & Ors. … Respondents

Mr. Prakash Shah, Senior Advocate with Mr. Brijesh Pathak and Dulraj Jain for Petitioner.

Mr. Jitendra B. Mishra a/w Ms. Sangeeta Yadav and Mr. Rupesh Dubey for the Respondent Nos.1 & 2.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 24 June 2025

PC. (M.S. Sonak, J.) :-

1. Heard learned counsel for the parties.

2. Rule. The rule is made returnable immediately at the request and with the consent of Mr. Mishra, the learned counsel for respondent nos. 1 and 2. Mr. Shah, learned Senior Counsel appearing for the petitioner, states that the 3rd respondent has been served. For the order that we propose to make now, the presence of the 3rd respondent is not essential.

3. The petitioner challenges the notice dated 9 July 2024 issued under Section 79(1)(c) of the Central Goods and Services Tax Act, 2017 (CGST Act) on several grounds that are set out in the petition.

4. Upon consideration of the rival contentions, we are satisfied that the impugned notice is required to be set aside for the reasons briefly discussed hereafter.

5. Section 79 of the CGST Act, 2017 is concerned with the recovery of tax. Section 79 (1)(c)(i) provides that the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount.

6. Section 79(1)(c)(vii) of the CGST Act provides that where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof.

7. In the present case, the impugned notice though issued under Section 79(1)(c) was not addressed to the petitioner but the same is addressed to the Branch Manager of the 3rd respondent-Bank at Gurugram. The petitioner has stated that the petitioner does not have any bank account at Gurugram and the bank account referred to in the impugned notice is with the Mulund Branch. The petitioner has also pleaded that no amount is due and payable to M/s. Durga Madhab Panda (Urneed Online Retail) which is allegedly liable to pay GST dues to the extent of Rs.30.19 crores.

8. At this stage, we do not propose to examine the factual controversies or the rival factual contentions. Suffice to mention that Section 79 contemplates a notice to a person from whom the money is due or may become due to such person or holds or may subsequently hold money for or on account of such person to pay the amount to the Government, either forthwith upon money becoming due or being held or within the time specified in the notice not being before the money becomes due or is held.

9. Where such notice is served on a person, he can prove to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default at the time the notice was served on him nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person.

10. Thus, in this case, a notice had to be served upon the petitioner so that the petitioner would have an opportunity of proving to the satisfaction of the officer issuing the notice that no amount was due and payable by the petitioner to the person in default i.e. M/s. Durga Madhab Panda. No such notice was admittedly served upon the petitioner. On this short ground, the impugned notice dated 9 July 2024 is liable to be quashed and set aside.

11. We may also refer to the decision of the learned Single Judge of the Karnataka High Court in the case of ***S.J.R. Prime Corporation Pvt. Ltd. Vs. Superintendent of Central Tax, Bengaluru***[1] in which case as well, a notice was directly served to the bank and not to the person who was allegedly due and payable some amount to the person in default. The learned Single Judge noted that this was in breach of the mandatory procedure prescribed under the CGST Act and quashed the impugned notice without expressing any opinion on the merits or demerits of the rival contentions. Liberty was also granted to the respondents to serve a notice upon the petitioner so that the petitioner would have an opportunity to prove to the satisfaction of the officer issuing the notice that no amount was due and payable by the petitioner to the person in default.

12. Accordingly, we quash and set aside the impugned notice dated 9 July 2024 but leave it open to the respondents to serve a fresh notice on the petitioner should they wish to.

---

1 2025 (92) G.S.T.L. 154 (Kar.)

13. Mr. Shah, on instruction, states that the petitioner's correct address is the one reflected in the cause title of this petition. Therefore, if any notice is served at the said address, the same would-be sufficient notice.

14. Rule is made absolute in the above terms without any cost order.

(Jitendra Jain, J) (M.S. Sonak, J)