IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.32063 of 2025

M/s.Guntupalli Marble and Granites
Represented by its Partner
Guntupalli Venugopala Rao. ... Petitioner

Vs.

1.The Assistant Commissioner of GST & C.Ex
Sholinganallur Division,
South Commissionerate,
692, M.H.U.Complex, Nandanam,
Chennai – 600 035.

2.The Principal Director General DGGI,
No.16, Greams Road, BSNL Building,
Tower II, VII Floor,
Chennai – 600 006.

3.The Branch Manager,
IDBI Bank,
Neelankarai Branch,
Plot No.2, 1st Main Road,
Raja Nagar, Tamil Nadu – 600 041.

4.The Branch Manager,
Kotak Mahindra Bank,
Nasik Thatte Nagar Road Branch,
Shop No.1, Payas, Opp. B.Y.K.College,
Thatte Nagar Road, Nasik, Maharashtra. ... Respondents

<u>Prayer</u>: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in the file of the First Respondent and quash the Impugned Letter dated 06.05.2025 bearing Reference No.GEXCOM/TECH/MISC/1152/2025 passed by the First Respondent and direct the First Respondent to give no objection certificate for release the Bank Guarantee.

For Petitioner : Mr.N.V.Balaji

For Respondents : Mr.Rajnish Pathiyil
Senior Standing Counsel
for R1 and R2

ORDER

The Petitioner has challenged the communication dated 06.05.2025 issued by the 1st Respondent, whereby, the request of the Petitioner to release the Bank Guarantee issued by the Petitioner on 29.01.2024 has been rejected.

2. Facts on record reveal that earlier the Petitioner's bank account was attached in the background of search and siezure proceedings conducted by the 2nd Respondent under Section 67 of the CGST Act, 2017 on 03.05.2023.

3. A Notice in GSTR 22 of provisional attachment of the Petitioner's bank account was made on 01.11.2023. Prior to the provisional attachment Notice issued on 01.11.2023, the Petitioner appears to have voluntarily paid

Rs.2,55,00,000/- [Rs.1,27,50,000/- under CGST and SGST each) under protest in DRC – 03 on various dates.

4. Under these circumstances, the Petitioner approached this Court in W.P.No.35712 of 2022 challenging the provisional attachment order dated 01.11.2023. This Court vide order dated 21.12.2023 disposed of the Writ Petition with the following observations:-

> *6.In view of the above submissions made on both sides, this Court passed the following order:-*
>
> *(i) As far as the petitioner's bank account in IDBI Bank, Neelankarai Branch is concerned, the petitioner is permitted to operate the said bank account only for the purpose of payment of GST alone. Therefore, to that extent, the provisional attachment order is ordered to be lifted.*
>
> *(ii) As far as the petitioner's bank account in Kotak Mahindra Bank, Nasik Thatte Nagar Road Branch is concerned, subject to the Petitioner furnishing of the bank guarantee to an extent of sum of Rs.5.7 corores, the attachment order is ordered to be lifted.*
>
> *(iii) with regard to operation of IDBI Bank account is concerned, the petitioner is directed to remit a sum of Rs.50,00,000/- out of the balance in IDBI Bank Account with regard to pending GST dues against which the proceedings are pending within a period of two weeks from the date of receipt of a copy of this order.*
>
> *6.1. Further, this Court directs the respective Banks to follow the above order of this Court in a scrupulous manner and see that this order has been duly complied with.*
>
> *7.With the above directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.*

5. Pursuant to the order dated 21.12.2023 of this Court, the Petitioner furnished a bank guarantee on 29.01.2024 for a sum of Rs.5.7 crores from Kotak Mahindra Bank. The bank guarantee which was furnished by the Petitioner pursuant to the order of this Court was valid upto 18.01.2025. Relevant clause from the said bank guarantee reads as under:-

> *(ii)This Guarantee shall be valid upto 18th Jan 2025 (being the date of expiry date of the Guarantee).*
>
> *(iii)The beneficiary's right as well the Bank's liability under this Guarantee shall stand extinguished unless a written claim or demand is made under this Guarantee on or before completion of one year from expiry date i.e., 18th jan 2026.*

6. It is in this background, the Petitioner was issued with a Show Cause Notice dated 30.07.2024 under Section 74 of the respective GST enactments, pursuant to which order dated 03.02.2025 was passed by the 1st Respondent, whereby, a total sum of Rs.12.46 Crores including interest and penalty was confirmed. The Petitioner filed an appeal on 29.04.2025 in Form APL – 01 against the aforesaid order dated 03.02.2025 which was admitted by the Appellate Authority in Form GST APL – 02 on 06.05.2025.

7. The Petitioner sent a representation on 11.04.2025 and 18.06.2025 for release of the bank guarantee by the Petitioner on 29.01.2024 which has now culminated in the impugned communication dated 06.05.2025. After the

impugned communication was issued on 06.05.2025, the Petitioner once again approached the Respondent on 10.05.2025 with a request to release the bank guarantee issued by the Petitioner.

8. The Petitioner has not made any further pre-deposit pursuant to order dated 03.02.2025 while filing the appeal. According to the Petitioner, once an appeal has been acknowledged in Form GST APL – 02 on 06.05.2022, it is deemed to have been admitted on the amount paid by the Petitioner voluntarily pursuant to the course of inspection under Section 67 of the respective GST enactments.

9. Therefore, it is submitted by the learned counsel for the Petitioner that the Petitioner is no longer required to pre-deposit any amount over and above the amount of 10% of the disputed tax. It is stated that the amount already paid voluntarily by the Petitioner shall be adjusted and deemed as pre-deposit for the purpose of filing the appeal.

10. The learned Senior Standing Counsel for the Respondent would submit that the Respondents have time upto the last date specified in the bank guarantee to recover the disputed tax amount from the Petitioner. Therefore, he

submits that this Writ Petition is liable to be dismissed and hence prays for dismissal of the Writ Petition.

11. I have considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

12. The provisional attachment order under Section 83 of the respective GST enactments dated 01.11.2023 is to protect the interest of the revenue. It is valid only for a period of one year. Therefore, the impugned attachment order made on 01.11.2023 would have already expired on 01.11.2024. However, the Petitioner's bank account appears to have remained attached. Therefore, the Petitioner was constrained to approach this Court in W.P.No.35712 of 2022 which was disposed of by this Court vide order dated 21.12.2023. The content of which has been extracted above.

13. The proceedings that have been initiated subsequently with the issuance of Show Cause Notice dated 30.07.2024 which has culminated in the Order in Original No.64/2025 dated 03.02.2025 is now the subject matter of an appeal before the Appellate Authority in an appeal filed on 29.04.2025. It has been also acknowledged on 06.05.2025 by the Appellate Authority.

14. However, the Petitioner is required to pre-deposit 10% of the disputed tax as a condition for the appeal to be admitted and for its disposal on merits in terms of Section 107 of the respective GST enactments.

15. The Petitioner is entitled for an automatic stay of the aforesaid assessment order confirming the demand against the Petitioner in view of the appeal filed by the Petitioner before the Appellate Authority on 29.04.2025 against the impugned Assessment Order in Original No.64/2025 dated 03.02.2025.

16. The circumstances under which the Petitioner made payment for a sum of Rs.2,55,00,000 on various dates pursuant to the search and seizure, during inspection. These payments by the Petitioner appears to be voluntarily payments and not "under protest". Therefore, the Petitioner cannot ask for refund of the aforesaid amount paid on various dates.

17. However, to balance the interest of the Petitioner and the Revenue, the Respondents 1 and 2 are directed to release the Bank guarantee furnished by the Petitioner subject to the Petitioner depositing 10% of the balance disputed

tax amount of Rs.11,27,62,618/- after deducting the amount of Rs.2,55,00,000/- within a period of 30 days from the date of receipt of a copy of this order.

18. This Writ Petition stands disposed of with the above observations. No costs.

17.11.2025

Neutral Citation : Yes / No
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To:

1.The Assistant Commissioner of GST & C.Ex
Sholinganallur Division,
South Commissionerate,
692, M.H.U.Complex, Nandanam,
Chennai – 600 035.

2.The Principal Director General DGGI,
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Nasik Thatte Nagar Road Branch,
Shop No.1, Payas, Opp. B.Y.K.College,
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C.SARAVANAN, J.

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