

[3311]

(SHOW CAUSE NOTICE BEFORE ADMISSION)
HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE TENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION NO: 17507 OF 2023

Between:

M/s Squad 7 Security and Allied Services, Plot No. 102, H.No.29-1382/102, Samantha Nagar, Old Safilguda, Secunderabad - 500 056, Telangana. Represented by its Proprietor, Mr. Jammi Ramesh Kumar S/o Late Mr. Jammi Harinarayana

Petitioner

AND

1. The Senior Intelligence Officer, Directorate General of GST Intelligence, Hyderabad Zonal Unit, H.No.1-63/2/212, Plot No. 212 and 213, Block B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500 033, Telangana.
2. The Additional Director General, Directorate General of GST Intelligence, Hyderabad Zonal Unit, H. No. 1-63/2/212, Plot No.- 212 and 213, Block B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500 033, Telangana.
3. The Branch Manager, State Bank of India, LIG B 75, Dr. A S Rao Nagar, Kapra, Secunderabad - 500 062, Telangana.
4. The Branch Manager, Union Bank of India, MIG B 11, Dr. A S Rao Nagar, Hyderabad - 500 062, Telangana.
5. The Branch Manager, Indian Overseas Bank, Plot No.100, Nirmalnagar, Malkajgiri, Secunderabad - 500 094, Telangana.
6. The Branch Manager, ICICI Bank, 1st Floor, Plot No.44, Survey No. 503, 503, Vijayapuri Housing Colony, Dr A S Rao Nagar, Hyderabad - 500 062, Telangana.
7. The Branch Manager, Punjab National Bank, Plot A-19-85/3/1, Rukminipuri Colony, Kapra, Secunderabad - 500 062, Telangana.

Respondents

WHEREAS the Petitioner above named through his Advocate Sri. A V A SIVA KARTIKEYA presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction, declaring

a. the summons issued by the 1st Respondent u/s. 70 of the Central Goods and Services Tax Act, 2017, on 17.02.2023, 04.05.2023, and 09.05.2023 respectively

b. the action of the 2nd Respondent in provisionally attaching the bank accounts of the Petitioner, held with Respondents Nos.3 to 7, u/s 83 of the Central Goods and Services Tax Act, 2017, on 23.05.2023 and

c. the action of the 1st and 2nd Respondent in continuously threatening to arrest the Proprietor of the Petitioner, despite his cooperation all through as arbitrary, illegal, high-handed, violative of the principles of natural justice, apart from being violative of Articles 14, 19(1)(g), 21 and 265 of the Constitution of India, and to consequently direct the Respondents not to arrest the Petitioners after raise the provisional attachments of the bank accounts of the Petitioner held with Respondents Nos.3 to 7.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri. KRISHNA KOUNDINYA appearing for Sri A V A SIVA KARTIKEYA Advocate for the Petitioner, and Sri, DOMINIC FERNANDES, for the Respondent Nos.1 & 2, directed issue of notice to the Respondent Nos.3 to 7 herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Branch Manager, State Bank of India, LIG B 75, Dr. A S Rao Nagar, Kapra, Secunderabad - 500 062, Telangana.
2. The Branch Manager, Union Bank of India, MIG B 11, Dr. A S Rao Nagar, Hyderabad - 500 062, Telangana.
3. The Branch Manager, Indian Overseas Bank, Plot No. 100, Nirmalnagar, Malkajgiri, Secunderabad - 500 094, Telangana.
4. The Branch Manager, ICICI Bank, 1st Floor, Plot No.44, Survey No. 503, 503, Vijayapuri Housing Colony, Dr A S Rao Nagar, Hyderabad - 500 062, Telangana.
5. The Branch Manager, Punjab National Bank, Plot A-19-85/3/1, Rukminipuri Colony, Kapra, Secunderabad - 500 062, Telangana.

are directed to show cause on or before 10.08.2023 to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the provision and attachments of the bank accounts of the Petitioner held with Respondents Nos.3 to 7, pending disposal of WP No.17507 of 2023, on the file of the High Court.

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents not to arrest the Proprietor of the

Petitioner, pending disposal of WP No.17507 of 2023, on the file of the High Court.

The Court made the following: ORDER

Heard Mr. Krishna Koundinya, learned Senior Counsel for the petitioner; and Mr. Dominic Fernandes, learned counsel for respondent Nos.1 and 2.

By filing this petition under Article 226 of the Constitution of India, petitioner has prayed for the following reliefs:

“To declare:

- a. the summons issued by the 1st respondent under Section 70 of the Central Goods and Services Tax Act, 2017, on 17.02.2023, 04.05.2023 and 09.05.2023 respectively;
 - b. the action of the 2nd respondent in provisionally attaching the bank accounts of the petitioner, held with respondent Nos.3 to 7, under Section 83 of the Central Goods and Services Tax Act, 2017 on 23.05.2023; and
 - c. the action of the 1st and 2nd respondent in continuously threatening to arrest the Proprietor of the petitioner despite his cooperation all through;
- as arbitrary, illegal, high-handed, violative of the principles of natural justice, apart from being violative of Articles 14, 19(1)(g), 21 and 265 of the Constitution of India and to consequently direct the respondents not to arrest the petitioners after raise the provisional attachments of the bank accounts of the petitioner held with respondent Nos.3 to 7 and to pass such other order or orders as this Hon'ble Court may deems fit, just and proper in the circumstances of the case.”

On 07.07.2023 we had passed the following order:

“ Having regard to the grievance expressed by the petitioner, Mr.Dominic Fernandes, learned counsel prays for time till Monday i.e., 10.07.2023 to obtain instruction.

Till Monday i.e., 10.07.2023, we direct that no further coercive steps shall be taken against the petitioner.

List on 10.07.2023.”

On instructions, Mr. Dominic Fernandes submits that this is a case which comes under Section 76 of the Central Goods and Services Tax Act, 2017 (briefly ‘the CGST Act’ hereinafter). Petitioner had

collected from several clients/service providers Goods and Services Tax (GST) during the period from 2017-18 to 2022-23. However, the collected amount has not been deposited with the Government. It is for this reason that action has been taken under Section 83 of the CGST Act. According to him, such amount collected by the petitioner from about 120 clients/service providers would be more than Rs.19 Crores but as on today, respondents have obtained information from 42 clients/service providers and as per such information, the amount collected by the petitioner as GST amount would be more than Rs.11 Crores. Petitioner has deposited Rs.6 Crores. If the petitioner deposits the balance amount, respondents would consider withdrawal of the attachment order.

On the other hand, Mr.Krishna Koundinya, learned Senior Counsel for the petitioner submits that such contentions of learned counsel for respondent Nos.1 and 2 are beyond the record. As per order dated 30.06.2023 passed by the 2nd respondent deciding to continue with provisional attachment of the bank accounts of the petitioner, the amount allegedly collected by the petitioner as GST has been quantified at Rs.11,57,65,812.00. It is not open to the respondents to improve upon such figure and cause prejudice to the petitioner. In any view of the matter, such contention of the respondents is at a stage prior to issuance of show cause notice and adjudication.

Issue notice.

Mr. Dominic Fernandes waives notice for respondent Nos.1 and 2.

Petitioner to serve respondent Nos.3 to 7 personally and thereafter file proof of service.

Respondent Nos.1 and 2 to file counter affidavit by the next date.

After hearing learned counsel for the parties and on due consideration, we direct that petitioner shall pay a sum of Rs.2.25 Crores to the GST authorities at Hyderabad within a period of 30 days from today and subject to such deposit, the provisional attachment of the bank accounts of the petitioner maintained with respondent Nos.3 to 7 would stand suspended.

We make it clear that the above order would in no way interfere with the ongoing investigation carried out by respondent Nos.1 and 2. List after a month on 10.08.2023.

**SD/- V. KAVITHA
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Intelligence Officer, Directorate General of GST Intelligence, Hyderabad Zonal Unit, H.No.1-63/2/212, Plot No. 212 and 213, Block B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500 033, Telangana.
2. The Additional Director General, Directorate General of GST Intelligence, Hyderabad Zonal Unit, H. No. 1-63/2/212, Plot No.- 212 and 213, Block B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500 033, Telangana.
(for 1 & 2 by RPAD)
3. The Branch Manager, State Bank of India, LIG B 75, Dr. A S Rao Nagar, Kapra, Secunderabad - 500 062, Telangana.
4. The Branch Manager, Union Bank of India, MIG B 11, Dr. A S Rao Nagar, Hyderabad - 500 062, Telangana.
5. The Branch Manager, Indian Overseas Bank, Plot No.100, Nirmalnagar, Malkajgiri, Secunderabad - 500 094, Telangana.
6. The Branch Manager, ICICI Bank, 1st Floor, Plot No.44, Survey No. 503, 503, Vijayapuri Housing Colony, Dr A S Rao Nagar, Hyderabad - 500 062, Telangana.
7. The Branch Manager, Punjab National Bank, Plot A-19-85/3/1, Rukminipuri Colony, Kapra, Secunderabad - 500 062, Telangana.
(for 3 to 7 by RPAD- along with a copy of petition and affidavit)
8. One CC to SRI. A V A SIVA KARTIKEYA Advocate [OPUC]
9. Two spare copies.

HIGH COURT

HC,J

&

NTR,J

DATED:10/07/2023

LIST ON 10.08.2023

NOTICE BEFORE ADMISSION

WP.No.17507 of 2023



DIRECTION