

W.P.No.5682 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

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M/s.SPDS-HR Solutions Private Limited
Represented by its Director
Muthukumaran.K.
No.598/2/3, T.P.K.Complex, Old G.N.T.Road,
Sembilivaram, Sholavaram (Po),
Chennai - 67.

... Petitioner

Vs.

1.Principal Additional Director General,
Office of the Director General of Goods
and Service Tax Intelligence,
Chennai-Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai - 600 006.

2.Additional Director,
Office of the Director General of Goods
and Service Tax Intelligence,
Chennai-Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai - 600 006.



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3. The Manager,
HDFC Bank (HDFC0001237), Broadway Branch,
No.153/154, Mandaram Centre Prakasam Salai,
Broadway, Prayys Corner,
Chennai - 600 108.

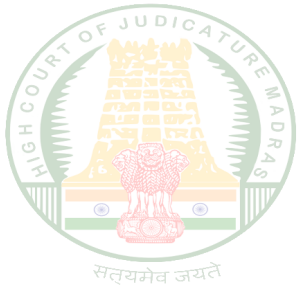
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the first respondent to release the attachment made to the bank account of the petitioner vide Notices of Provisional Attachment of property under Section 83 of the CGST Act, 2017, issued to the third respondent, HDFC Bank, Broadway Branch dated 1st of October 2021 vide DIN 202110DSS200000091E5.

For Petitioner : Ms.P.Jayalakshmi
For Respondents :
For R1 & R2 : Mr.Rajnish Pathiyil
Senior Standing Counsel

ORDER

This writ petition has been filed for issuance of a Mandamus, to direct the first respondent to release the bank account attachment of the petitioner vide notice of provisional attachment of property under Section 83 of the Central Goods and Services Tax (CGST) Act, 2017, issued to the third respondent, HDFC Bank, Broadway Branch dated 01.10.2021 vide DIN 202110DSS200000091E5.



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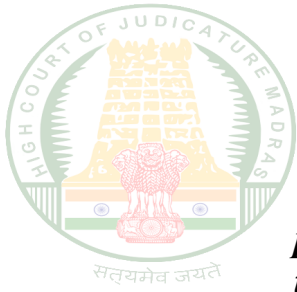
WEB COPY2. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the first and second respondents.

3. The facts on record indicates that the petitioner's account was provisionally attached under Section 83 of the CGST Act by a communication dated 01.10.2021.

4. Relevant portion of the notice/order reads as under:-

"It is to inform that M/s SPDS HR solutions Private Limited having principal place of business at 589/5/3, T.P.K.Complex, Old GNT Road, Sembivaram, Sholavaram, Chennai - 600 067 bearing GST registration number as 33ABDCS4905P1Z1 is a registered taxable person under the CGST Act, 2017. Proceedings have been launched against the aforesaid taxable person under section 67 of the said Act to determine the tax or any other amount due from the said person. As per information available with the department, it has come to my notice that the said person has account in your bank having current account no.50200049077416.

In order to protect the interests of revenue and in exercise of the powers conferred under section 83 of the Act, I MAYANK KUMAR, Pr. Additional Director General, Directorate of GST Intelligence, Chennai Zonal Unit, Chennai-06, hereby provisionally attach the aforesaid account. No debit shall be allowed to be made from the said account or any other account operated by the aforesaid



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person on the same PAN without the prior permission of this department."

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5. It appears that the petitioner has been accused of providing manpower supply/bill trading and passing on ineligible credit to various customers to avail ineligible Input Tax Credit to discharge the tax liability.

6. The petitioner's director was also arrested and remanded to judicial custody and was enlarged on bail on 30.11.2021, pursuant to the order that came to be passed in Crl.O.P.Nos.20019, 20021 and 20023 of 2021 by an order dated 01.11.2021.

7. The petitioner has also deposited the amounts *post facto*. The petitioner has also received a Show Cause Notice (SCN.No.9/2023) dated 06.02.2023.

8. On behalf of the petitioner, the petitioner's director has deposited a sum of Rs.50,00,000/- (Rs.25,00,000/- each in two accounts, viz., GSTIN-33AQSPG9533A1ZX and GSTIN-33ABDCS4905P1Z1). The impugned order that has been passed on 01.10.2021 is in Form GST DRC-22 is valid



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for a period of one year in terms of Section 83(2) of CGST Act, which reads

WEB CASE as under:-

"83. Provisional attachment to protect revenue in certain cases:-

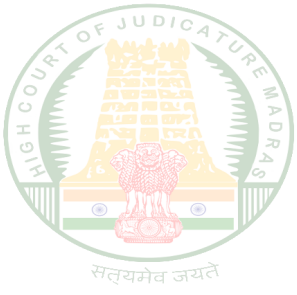
(1)

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1)."

9. Thus, there is no requirement to quash the aforesaid order, since the said provisional order of attachment is valid only for a period of one year.

10. Considering the fact that the petitioner's director has deposited Rs.50,00,000/-, which stands confirmed in the Show Cause Notice No.9/2023 dated 06.02.2023 issued to the petitioner, there shall be a direction for lifting the order of attachment. The third respondent shall allow the petitioner to operate the account.

11. The first and second respondents are at liberty to dispose the Show Cause Notice No.9/2023 dated 06.02.2023 as expeditiously as possible.



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WEB COPY12. This Writ Petition stands disposed of with the above observations.

No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

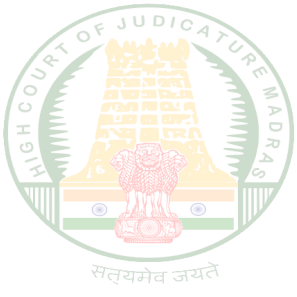
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Note: Issue Order Copy on 21.09.2023.

To

1.Principal Additional Director General,
Office of the Director General of Goods
and Service Tax Intelligence,
Chennai-Zonal Unit,
8th Floor, Tower-II, BSNL Building,
No.16, Greams Road,
Chennai - 600 006.

2.Additional Director,
Office of the Director General of Goods
and Service Tax Intelligence,
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C.SARAVANAN, J.

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