

W.P. No.3636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.02.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

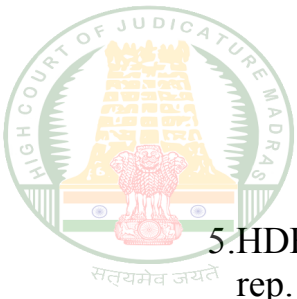
W.P. No.3636 of 2023 and W.M.P. No.3720 of 2023

M/s.Lucas TVS Limited,
represented by its Authorised Signatory
Mr.M.C.Sudarsan

... Petitioner

vs.

- 1.Superintendent of GST and Central Excise,
Enforcement and Compliance Management,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.
- 2.Assistant Commissioner of GST and Central Excise,
Enforcement and Compliance Management,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.
- 3.Commissioner of GST and Central Excise,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.
- 4.State Bank of India,
rep. by its Manager,
Pondicherry Branch,
15, Rue Suffren,
Puducherry – 605 001.



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5.HDFC Bank Ltd.,
rep. by its Manager,
Anna Salai branch,
759-ITC Centre, Opposite TVS,
Anna Salai, Chennai 600 002.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent to release the blocked funds in the petitioner's Bank Account opened with the fourth respondent with Account Number 35277200625 and further direct the second respondent not to block funds in any other Bank Accounts of the petitioner without following the due process of law.

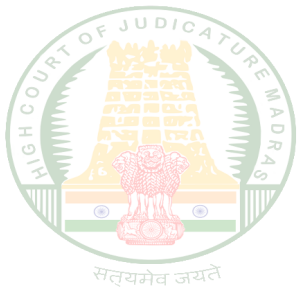
For petitioner : Mr.Raghavan Ramabadran

For respondents : Mr.Sai Srujan Tayi,
Standing Counsel
for R1 to R3

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2.This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to release the blocked funds in the petitioner's Bank Account, opened with the fourth respondent bearing Account Number 35277200625 and further direct the second respondent not to block funds in any other Bank Account of the petitioner without following the due process of law.



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3. The petitioner filed their GSTR-3B for the month of July 2017 on

19.08.2017. According to the petitioner, due to technical glitches in the GST Portal, they were unable to capture the ITC eligibility, availed for the month of July 2017 in the GSTR-3B. According to the petitioner, they manually deducted the ITC duly eligible, availed by them to the tune of Rs.9,40,30,477/- from the gross amount of output GST payable to the tune of Rs.17,69,65,214.61 and provided the final net amount of output tax liability of the petitioner to the tune of Rs.8,29,34,603/-. Thereafter, while filing the annual GST return for the financial year 2017-18 in GSTR-9 on 30.01.2020, the petitioner duly reflected the actual availed ITC and output GST liability. According to the petitioner, the reconciliation statement filed in GSTR-9C, reflected the said difference in the ITC, availed between GSTR-3B and GSTR-9 in Table 13A. The first respondent issued summons to the petitioner on 28.10.2022 for the alleged short payment of tax in July 2017. The petitioner claims to have attended the enquiry and recorded the statement on 31.10.2022. However, according to the petitioner, a copy of the statement was not provided to them. On 05.12.2022, the second respondent issued summons to the petitioner for the alleged non-payment of GST in respect of certain transactions in July 2017. The petitioner claims that they had



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attended the enquiry and recorded the statement on 12.12.2022 and the copy of the statement was not provided to the petitioner. On 12.12.2022, the first respondent issued notice to the petitioner requesting them to reconcile the GSTR-1, GSTR-3B, GSTR-2A and GSTR-9 returns, already filed by the petitioner for the month of July 2017. On 15.12.2022, the petitioner has replied to the above notice requesting an extension of two weeks' time and subsequently, on 30.12.2022 and 19.01.2023, the petitioner submitted the details to the first respondent. According to the petitioner, when they were unable to use their account with the fourth respondent, they realised that the funds in their bank account is blocked for withdrawal. The petitioner has given a representation to the respondents 1 and 4 to provide a copy of the notice through which the funds of the petitioner were blocked. According to the petitioner, till date, they have not got the copy of the said notice from the respondents. On 27.01.2023, the fourth respondent replied to the representation made by the petitioner by stating that the second respondent has issued notice to the Bank asking them to block funds in the petitioner's account under Section 79(1)(c)(i) of the CGST Act, 2017. On 27.01.2023, the petitioner has requested the first respondent once again to provide a copy of the notice through which the funds of the



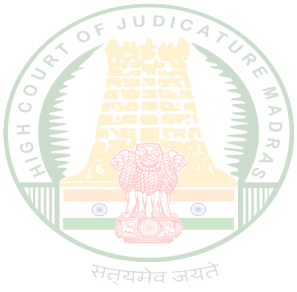
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petitioner amounting to Rs.18,44,82,307/- has been blocked. According

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to the petitioner, till date, the respondents have not provided the copy of the said notice. On 27.01.2023, the first respondent served another notice on the petitioner seeking details of the excess availment of ITC in GSTR-3B as compared to GSTR-2A for the period 2017-18, 2018-19, 2019-20 and 2020-21 without any reference of sorts to the action already taken in this regard. The petitioner has replied to the said notice on 30.01.2023 seeking three weeks time to collate all the details.

4.Learned counsel for the petitioner now submits on instructions that the petitioner apprehends that if the amounts are blocked, their business will come to a standstill. Learned counsel for the petitioner also drew the attention of this Court to various documents filed along with this writ petition. Learned counsel for the petitioner submits that the petitioner will be satisfied if the petitioner's representation seeking for release of the blocked funds in the petitioner's Bank Account, held with the fourth respondent is considered, on merits and in accordance with law.

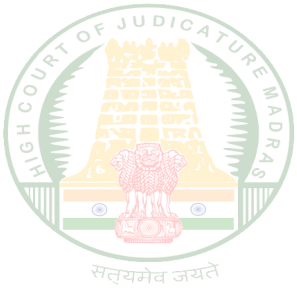


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5. Heard Mr.Raghavan Ramabadran, learned counsel for the petitioner and Mr.Sai Srujan Tayi, learned Standing Counsel, who accepts notice on behalf of the respondents 1 to 3.

6. Since a specific request has not been made by the petitioner for release of the blocked funds in the petitioner Bank Account, maintained with the fourth respondent, the petitioner will have to give a fresh representation to the second respondent seeking for release of the blocked funds in the petitioner's bank account, maintained with the fourth respondent Bank.

7. No prejudice would be caused to the respondents if the petitioner's representation seeking for release of the blocked funds in the petitioner's Bank Account, maintained with the fourth respondent is considered, on merits and in accordance with law, after giving due consideration to the submissions made by the petitioner in the affidavit filed in support of this writ petition, which have been narrated supra, within a time frame to be fixed by this Court.



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8. For the foregoing reasons, this Court directs the petitioner to

submit a fresh representation to the second respondent stating their grievance that have been raised in the affidavit filed in support of this writ petition, within a period of one week from the date of receipt of a copy of this order. On receipt of the said representation, the second respondent shall pass final orders, on merits and in accordance with law, after giving due consideration to the grievances raised by the petitioner in their representation, within a period of four weeks from the date of receipt of the said representation. Till final orders are passed on the petitioner's representation, the respondents 1 to 3 are directed not to attach funds lying in any other bank account of the petitioner, pertaining to the subject demand.

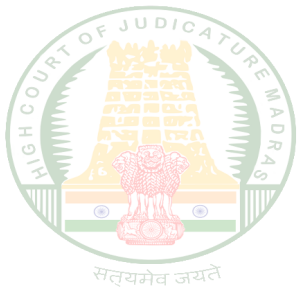
9. With the above direction, this writ petition stands disposed of.

Consequently, connected W.M.P. stands closed. No costs.

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Index: Yes/No



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ABDUL QUDDHOSE, J.

vga

To

1. Superintendent of GST and Central Excise,
Enforcement and Compliance Management,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.
2. Assistant Commissioner of GST and Central Excise,
Enforcement and Compliance Management,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.
3. Commissioner of GST and Central Excise,
Puducherry Commissionerate,
1, Gourbet Avenue (Beach Road),
Puducherry – 605 001.

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