



W.P.(MD)No.12115 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.05.2023

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THE HONOURABLE Mrs.JUSTICE L.VICTORIA GOWRI

W.P.(MD)Nos.12115 and 12116 of 2023

and

W.M.P.(MD)Nos.10380, 10381, 10382 and 10383 of 2023

K.Marimuthu

... Petitioner

Vs.

1.The Commissioner of GST &Central Excise,
26/1 GST Bhavan
Uthaman Gandhi Salai
Nungambakkam
Chennai 600 034.

2.The Deputy/Assistant Commissioner of GST & Central Excise,
Trichy I Division,
No.1 Williams Road
Cantonment,
Tiruchirappalli 620 001.

3.The Branch Manager,
Indian Bank
P.B.No.91128
9th Cross Colony
Thillai Nagar
Trichy 620 018.

... Respondents



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PRAYER in WP(MD) No.12115/2023: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in relation to the impugned recovery notice No.Nil dated 24.04.2023 issued by the 2nd respondent and quash the same as it is a gross violation of principles natural justice, is arbitrary in nature and violative of Article 14 and 19(1)(g) of the Constitution of India and consequently direct the 2nd respondent to release the bank attachment and allow the petitioner to file an appeal against the order in Original No. 201/2022 dated 27.06.2022.

PRAYER in WP(MD) No.12116/2023: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in relation to the impugned recovery order in original No. 201/2022-ST in DIN No.202220659XNO10000B66A dated 27.06.2022 issued by the 2nd respondent and quash the same as it is violative of Article 14 and 19(1)(g) of the Constitution of India.

For Petitioner : Ms.P.Jayalakshmi
For Respondents : Mr.N.Dilipkumar

COMMON ORDER

W.P.(MD) No.12115/2023

In WP(MD) No.12115/2023, challenge is made to the impugned recovery notice dated 24.04.2023 of the 2nd respondent and for a direction to



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the 2nd respondent to release the bank attachment and allow the petitioner to file an appeal against the order in Original No.201/2022 dated 27.06.2022.

2. Learned counsel for the petitioner would submit that the impugned recovery is arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India and bank attachment made is against the principles of natural justice and the said exercise has been done without considering the ailment of the petitioner and only in such circumstances, he could not make necessary service tax liabilities for the period from 01.04.2015 to 30.06.2017 and hence, prays for necessary directions.

3. Per contra, the learned standing counsel for the respondents would submit that it is not at all possible to release the bank attachment, when the petitioner is not able to substantiate the total amount, which is available in the said account and moreover the petitioner's prayer is also not maintainable.



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4. I have heard the learned counsel for the petitioner, the learned standing counsel for the respondents and perused the materials available on record.

5. There is no doubt that the petitioner is ailing from cancer. It is also seen that due to the default in paying the service tax, the respondents have attached the bank account of the petitioner and recovery notice has also been issued vide impugned order dated 24.04.2023, challenging which, the petitioner is before this Court.

6. In order to substantiate his case, the petitioner has relied upon the orders passed by this Court dated 20.01.2009 and 28.04.2023 in WP No.804/2009 and W.P. No.13687/2023 respectively to contend that in those cases, the petitioners therein were permitted to approach the statutory authority beyond the period of limitation.

7. In the light of the same, this Court, considering the ailment of the petitioner, permits him to approach the statutory authority by way of an



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appeal within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that the request made by the petitioner to release the bank attachment may be raised before the appellate authority.

8. Accordingly, W.P.(MD) No.12115 of 2023 stands disposed of with the above direction.

9. As far as W.P.(MD) No.12116 of 2023, the learned counsel for the petitioner seeks permission of this Court to withdraw the writ petition. She has also made an endorsement to that effect.

10. In view of the endorsement so made, W.P.(MD) No. 12116/2023 is dismissed as withdrawn.

No costs. consequently connected Miscellaneous Petitions are closed.

18.05.2023

NCC: Yes / No
Index : Yes / No

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L.VICTORIA GOWRI,J.

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W.P.(MD)Nos.12115 and 12117 of 2023

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