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**(2012) 12 MAD CK 0112**

**In the Madras High Court**

**Case No :** Writ Petition No. 32442 of 2012 and M.P. No's. 1 and 2 of 2012

Mrs. Kutty Padmini

APPELLANT

Vs

Commissioner of Service Tax

RESPONDENT

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**Date of Decision :** 05-12-2012

**Acts Referred:**

**Citation :** (2013) 39 STT 71

**Hon'ble Judges :** R. Sudhakar, J

**Bench :** Single Bench

**Advocate :** S. Murugappan, for the Appellant; Ravi Anandhapadmanabhan, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

R. Sudhakar, J.—This Writ Petition is filed praying to issue a Writ of Certiorari, calling for the records of the second respondent culminating in the notice of attachment dated 19.11.2012 issued from File C. No. IV/16/48/2009 ST GR III and quash the same. Mr. Ravi Anandhapadmanabhan, learned counsel takes notice for the respondents. By consent, the writ petition is taken up for disposal.

2. The writ petition has been filed challenging the notice of attachment of immovable property, namely "CEEBROS SHYAMALA" Block-IV flat No. 7D, 7th Floor, Door No. 136, Arcot Road, Saligraman, Chennai - 600093..." issued by the respondent Service Tax Department alleging default in payment of service tax by Shri Goolabjith alias Prabhu Nepaul, Prop, of M/s. Jakaarb Telefilms No. 6, 2nd Floor, 4th Cross Street, Sterling Road, Chennai-600 034 and a copy of the notice of attachment of immovable property, has been served on the petitioner Mrs. Kutty Padmini as mother of Ridhineka Goolabjith Nepaul.

3. The plea of the petitioner is that based on power of attorney dated 2.6.2011 and Memorandum of Understanding dated 13.7.2011 between the petitioner and her husband Ramaprabha Sathyanand Nepaul Goolabjith @ Prabu Nepaul and the settlement deed dated 3.1.2012 by the said Ramaprabha Sathyanand Nepaul

Goolabjith @ Prabu Nepaul in favour of their minor daughter, the property stood transferred in the name of their minor daughter who in turn after attaining majority sold the same to the third parties, the present owners of the property, namely, Mr. Rajagopalan Kuppuswamy and Mrs. Hema Balasubramanian by document No. 4071/12 dated 20.7.2012.

4. In view of the notice of attachment of the immovable property, present writ petition has been filed stating that the provisions of the Customs Act has not been followed.

5. On fact, the petitioner is not the owner of the property in question. It is not open to the petitioner to challenge the notice of attachment of immovable property as she is not the owner of the property as per her claim. If the notice has been wrongly issued to the petitioner, it is open to the petitioner to give a representation to the respondent authority setting out the details of the transaction that has taken place as above. If any action is proposed to be taken as against the petitioner, thereafter the petitioner can defend such action as per law. At this stage, no relief as sought for can be granted. The petitioner, however, is directed to give a reply to the respondent authority explaining the facts as above so as to enable the department to take appropriate action as per law. It is made clear that this Court has not expressed any opinion on the merits of the case. The writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.