(2013) 12 BOM CK 0181

In the Bombay High Court

Case No : Writ Petition (L) No. 1786 of 2013

Shri Krishna Chaitanya Enterprises — APPELLANT

Vs

Union of India — RESPONDENT

Date of Decision : 05-12-2013

Acts Referred:

Citation : (2014) 44 GST 681

Hon'ble Judges : Mohit S. Shah, C.J;M.S. Sanklecha, J

Bench : Division Bench

Judgement

1. By this petition under Article 226 of the Constitution of India, the petitioner has challenged the action of the respondents freezing the bank accounts of the petitioner maintained with United Bank of India, Dahisar (W) Branch, Mumbai as per the particulars given in prayer clause (a) of the petition. The impugned action has been taken by a letter dated 4 March 2013 addressed by the Deputy Commissioner of Service Tax, Mumbai-II to the Branch Manager of United Bank of India, Dahisar (W), Branch, Mumbai. The letter mentions that the petitioner has defaulted in payment of Service Tax liability to the tune of Rs. 88.10 lakhs and that the amount of Service Tax has been collected by the petitioner from its clients but not deposited with the Government.

2. According to the petitioner, the petitioner has already paid the Service Tax of Rs. 1,32,50,497/- in two parts (Rs. 1,23,68,420 + Rs. 8,82,077).

3. The learned counsel for the petitioner states that the aforesaid sums include the sum of Rs. 88.10 lakhs referred to in the departmental communication dated 4 March 2013 to the bank. It is submitted that the respondents have not commenced any adjudication proceedings and even a show cause notice has not been served upon the petitioner. It is further submitted that the respondents are not justified in freezing the petitioner''s bank account for the Service Tax liability which, according to the petitioner, has been discharged by the petitioner.

4. According to Mr. Jetly, the learned counsel for the revenue, the total Service

Tax liability of the petitioner is Rs. 1,87,34,068 (Rs. 1,23,68,420 + Rs. 63,65,648). It is, therefore, submitted that the petitioner still owes the revenue the differential amount of Rs. 54,83,571/- and, therefore, the department is justified in freezing the petitioner''s bank account.

5. The learned counsel for the petitioner submits, without prejudice to the petitioner''s rights and contentions, that as the petitioner''s business has been completely paralysed, the petitioner is ready to give bank guarantee for the said balance amount of Rs. 54,83,571. In view of the above, we dispose of this petition with a direction to the respondents to withdraw the letter dated 4 March 2013 freezing the petitioner''s bank account or any subsequent communication regarding the petitioner''s bank account upon the petitioner furnishing the bank guarantee in the sum of Rs. 54,83,571.

It will be open to the United Bank of India, Dahisar (W) Branch to utilise the amount lying in the petitioner''s account for the purposes of giving the bank guarantee as required by the petitioner.

It will be open to the petitioner to give the bank guarantee of United Bank of India or any other Nationalized Bank. The bank guarantee will be subject to the satisfaction of the Commissioner of Service Tax, Mumbai.

Since the petitioner is going to furnish the bank guarantee, it will be just and proper for the respondents to issue a show cause notice to the petitioner by 28 February 2014 and to complete the adjudication proceedings as expeditiously as possible and preferably by 30 June 2014.

The petition is accordingly disposed of.