

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 14898 of 2023****Between:**

V.V.R. Industries and another

... Petitioners

And

Union of India and others

... Respondents

JUDGMENT PRONOUNCED ON: 15.04.2024**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 14898 of 2023****% 15.04.2024****Between:**

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< Gist:

➤ Head Note:

!Counsel for the Petitioners: Mr.C.Shanmukha Rao

^Counsel for Respondent Nos.1 & 2 : L. Pranthi Reddy

Standing Counsel for respondent No. 3: Mr M.P.Kashyap

Counsel for respondent No.4: Mr THOMAS JOSEPH LLOYD

Counsel for respondents 5 and 6:G.P. for Home

? Cases Referred:

HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 14898 of 2023****ORDER:**

Heard Mr C.Shanmukha Rao, learned counsel appearing on behalf of the petitioners, Ms L.Pranathi Reddy, learned Standing Counsel for Central Government appearing on behalf of respondent Nos.1 and 2, Mr M.P.Kashyap, learned standing counsel appearing on behalf of respondent No. 3, Mr Thomas Joseph Lloyd, learned counsel appearing on behalf of the 4th respondent and learned Government Pleader for Home appearing on behalf of respondents 5 and 6.

2. The petitioner filed the present writ petition seeking prayer as under:

"to issue an order or direction in the nature of writ, more particular in the nature of Writ of Mandamus declaring the inaction of respondents in continuing to freeze Petitioner No.1's account and directing the Respondent No. 3 Bank to de-freeze account No. 50200016545880 of 1st petitioner, pending further investigation by the Respondent No. 5 & 6."

3. The case of the petitioners, in brief, as per the averments made by the petitioner in the affidavit filed

by the petitioner in support of the present writ petition
is as under:

a) The 1st Petitioner Firm is doing business of supply of steel strap, strapping seals CR Sheets, C-30 guards with the 4th respondent company and other companies which are subsidiary of the 4th respondent company and other companies. The business transaction between 4th respondent and the 1st petitioner is also that of supply of goods i.e. exchange of their goods as per their requirement and necessity on payment of goods consideration. On this process the 1st petitioner firm had debt with the 4th respondent company and the 4th respondent also had debts with other companies among them one is Sunray Metallurgical Ltd..

b) Thereafter, a letter was addressed by the representative of the 4th respondent firm to the 1st petitioner to clear the debts with Sunray Metallurgical Ltd Company and subsequently one representative of the 4th respondent had approached to petitioner No.1 firm with a letter addressed that petitioner No.1 firm had to clear their debts with Sunray Metallurgical Ltd. Company on their instruction the 2nd petitioner had cleared the 4th respondent company debts

through petitioner No.1 firm account for an amount of Rs.80,22,711/- .

c) Subsequently, the 6th respondent without proper enquiry has registered a crime No. 539 of 2022 dated 25.08.2022 including the petitioner firm, as accused No.6 for the mischief/cheating and other acts done by the employee of the 4th respondent which is nowhere concerned and not connected with petitioner No.1 firm. Thereafter, the 5th respondent has issued notice dated 25.11.2022 to freeze the account of the 1st petitioner with the 3rd respondent bank vide A/c No.5020016545880 through letters. The 5th respondent has also issued further notices to the 1st petitioner dated 21.11.2022, 22.12.2022 & 17.03.2023 and the petitioner has replied to all the notices along with the documentary evidences. However, the 5th respondent has again issued notices dated 24.04.2023 and 29.04.2023.

d) Thereafter, as the result of notice issued by the 5th respondent, the 3rd respondent bank has frozen the account of the 1st petitioner firm and the same was intimated to the petitioner through letter dated 25.11.2022. However, even upon proper investigation by the respondent No. 3 & 5, the

5th respondent is not sending letter to the 3rd respondent to defreeze the 1st petitioner firm's account as it is no more required.

e) Moreover, all the business transactions between the 4th respondent and the 1st petitioner firm are also cleared and this clearly establishes the false allegations levelled against the petitioner firm. The 1st petitioner firm has only one bank account through which it conducts its business and in the view of the above facts and circumstances continuing to freeze the petitioner's account by the 3rd respondent will further hamper petitioners' business. Hence this Writ Petition.

4. PERUSED THE RECORD

A) Letter dated 25.11.2022 of the HDFC Bank, reads as under:

"I have received the Notice on 11.11.2022 from Asst. Commissioner Police to Debit Freeze Your Account (50200016545880). Based on the Notice, we have marked no Debit to your Account.

This letter has been issued upon specific request received from the customer without any risk or responsibility on part of the Bank or any of its signing authorities."

B) Letter dated 07.08.2023 vide Rc.No.DC.II/2023, dated 07.08.2023 of the Deputy Commissioner (ST-II) Enforcement, O/o Commissioner of Commercial Taxes C.T. Complex, Nampally, Hyderabad - 500 001 addressed to the Assistant Commissioner of Police, EOW, Cyberabad Police Commissionerate, Hyderabad at Gachibowli – 500 032 and in particular, the relevant portion, read as under:

“In connection to the letter issued from your office, we hereby submit that we have found various fraudulent transactions while going through the e-waybills and their purchase and sale transactions. **We observed the following which clearly exhibits the fraud done by the supplier duly raising invoices without supplying material.**

V.V.R. INDUSTRIES:

While going through the transactions of VVR Industries, it was observed that the said company is not in the procurement of CR/HR Coils and involved only in the business of trading of CR Strips and other finished products only. It was also observed that there is variation in the quantity mentioned in Invoices and E-waybill also which were raised to KLSR Infratech Limited and on the same vehicles, other e-waybills also raised by other taxpayers. It was also observed that there is

no procurement of CR/HR Coils from any company involved in the said business.

Further, it was also observed that there are huge variations in the value of HSN wise purchases and sales and not even matching with the purchased HSN code material and sold HSN Code material. We also observed that there is no vehicle movement for many invoices.

It was also observed that the vehicles pertaining to procurement of material and sale of material were non-transport vehicles and moreover Bike (AP15BB1147), Tractor (AP15TA7129), Car (TS08UB7124), TS12UB2286 (Passenger Auto), TS34T2977 (Passenger Auto) AP28BP1145 (NANO Car) etc., **which clearly exhibits that the said firm involved in huge fraudulent transactions not only with KLSR Infratech Limited but also with many companies.** It was also observed that some of the vehicles were frequently used even on the same day also and the existence of vehicles and the carrying capacities of all vehicles need to examine further in detail."

C) Paras 6 and 9 of the counter affidavit filed by respondent No.4, read as under:

"6. The Respondent No. 4 submits that the respondent No. 4 having paid the amounts to the petitioner under the belief that the petitioner had issued genuine invoices/ bills and without doubting his intentions cleared the bills, but during the audit when the

respondent No. 4 verified the accounts, the respondent No. 4 realized that the amounts claimed by the petitioner in their invoices for the supplies alleged to have been made, were never made to the Respondent No. 4 company and that the petitioner had raised false bills and invoices and had usurped away several crores of Rupees from the respondent No. 4.

Further the respondent No. 4, verified with the Commercial Tax Department with regard to the alleged supplies claimed to have been made by the petitioner and the respondent No. 4 vide Letter dt. 07-08-2023, received from the Deputy Commissioner enforcement commissioner of commercial tax in which it is clearly mentioned that "while going through the transactions of VVR industries, it was observed that the said company is not in the procurement of CR/HR coils and involved only in the business of trading of CR Strips and other finished products only it was also observed that there is variation in the quantity mentioned in invoices and E-Way bill also which were raised to KLSR Infratech Ltd and on the same way vehicles, other e-way bills also raised by other taxpayers. It was also observed that there is no procurement of CR/HR coils from any company involved in the said business.

9. **Respondent No. 1, submits that the petitioner fraudulently had received Crores of rupees from the Respondent No. 4 and the Respondent No. 4**

had realized the same and lodged a complaint with the police Jeedimetla and the police Jeedimetla had registered FIR No. 539 of 2022, dated 30 June 2022 Under Sections 420 and 406 of IPC, and during the course of investigation, the police having found the complaint of the Respondent No. 4 true and genuine and also that the petitioner has played fraud and raised false invoices against the Respondent No. 4 company had got the bank account of the petitioner freezed and the same is in freeze till date."

D) Paras 9, 10 and 11 of the counter affidavit filed by respondent No.5 read as under:

" In this regard, it is submitted that the petitioner No.1 falsely claimed an amount of Rs. **3,38,59,030** (Rupees three crores thirty-eight lakhs fifty-nine thousand and thirty only) **from the 4th respondent company and credited in their bank account No. No.50200016545880 HDFC Bank, Kompally, Hyderabad.** The respondent No.5 also intimated to **THE HONOURABLE VIII METROPOLITAN MAGISTRATE, MEDCHAL:: CYBERABAD** regarding the said freezing of account vide letter dt. 18.11.2022. Since the amount available in the account No.**50200016545880** HDFC Bank pertains to the amount claimed by the petitioner No.2 from the 4th respondent. **In view of the same, the respondent No.5 requested the respondent No.3 to make debit**

freeze of the account in order to protect the case property/money till the orders of the Hon'ble Court.

10. It is respectfully submitted that the petitioner No.2/accused No.6 in para No.9 & 10 requested to de-freeze their bank account No.**50200016545880** HDFC Bank to facilitating them to pay salaries to their employees, workers, customers, bills etc.

In this regard, it is to submit that the investigation of this has been completed and filed the charge sheet before the Hon'ble VIII METROPOLITAN MAGISTRATE, MEDCHAL:: CYBERABAD on 19-09-2023 and it is PT vide CC No. 1837 of 2023.

It is respectfully submitted that, since the amount available in the account No.**50200016545880** HDFC Bank pertains to the amount claimed by the petitioner No.2/A-6 from the 4th respondent, the prayer of the petitioner No.2/A-6 is not considerable.

11. It is submitted that the petitioner has efficacious alternate remedy to approach the Hon'ble Trial Court for the relief claimed in this Writ Petition, as such present Writ Petition is not maintainable.

For the reasons stated above, it is therefore prayed that, this Hon'ble Court may be pleased to dismiss the Writ Petition, in the interest of justice and pass such other order or orders as this Hon'ble Court

may deem fit and proper in the circumstances of the case."

5. A bare perusal of the averments made in the counter affidavit filed by the 4th respondent indicates that on the ground that the petitioner had raised invoices without making any supplies to the respondent No.4 company and on realization of the same, the respondent No.4 lodged a complaint with the police, Jeedimetla and had registered FIR No.539 of 2022, dated 30.06.2022 under Sections 420 and 406 IPC against the petitioner herein.

DISCUSSION AND CONCLUSION

6. A bare perusal of the material document enclosed along with the counter filed by the 4th respondent vide Rc.No.DC.II/2023, dated 07.08.2023 of the Deputy Commissioner (ST-II) Enforcement, O/o Commissioner of Commercial Taxes C.T. Complex, Nampally, Hyderabad - 500 001 addressed to the Assistant Commissioner of Police, EOW, Cyberabad Police Commissionerate, Hyderabad at Gachibowli – 500 032,

clearly indicates a clear finding against the petitioner that petitioner indulged in fraud by raising invoices without supplying material and that there is no vehicle movement for many invoices and that there are huge variations in the value of HSN wire purchases and sales are not even matching with the purchased HSN Code material and sold HSN Code material.

7. A bare perusal of the averments made in the counter affidavit filed by the respondent No.5 in particular paras 9, 10 and 11 (referred to and extracted above) clearly indicates the specific stand of the respondents, that petitioner No.2 had falsely claimed an amount of Rs.3,38,59,030/- from the 4th respondent company without the 4th respondent being supplied the raw material as mentioned in their 22 invoices, and got credited the said amount in petitioners' bank account No.50200016545880,HDFC, Kompally, Hyderabad and in view of the same the 5th respondent requested the respondent No. 3 to make debit freeze of the subject account in order to protect the case property/money till appropriate orders are passed by the trial Court.

8. This Court taking into consideration the specific averments made at paras 6 and 9 of the counter affidavit filed by respondent No.4 and also the specific averments made in the counter affidavit filed by the 5th respondent at para 9, 10 and 11 and the contents of the letter Rc.No.DC.II/2023, dated 07.08.2023 (referred to and extracted above) and duly taking into consideration the fact as borne on record, that the investigation of the subject case had been completed and charge sheet had been filed before the VIII Metropolitan Magistrate, Medchal, Cyberabad on 19.09.2023 vide C.C.No.1837 of 2023, this Court opines that the effective remedy available to the petitioner as per law for the relief claimed for in the present writ petition is to approach the competent Trial Court, and accordingly, the writ petition is disposed off giving liberty to the petitioner to approach the competent trial Court for the relief prayed for in the present writ petition since the specific plea taken by the petitioner in the reply affidavit filed by the petitioner No.2 that the 5th respondent completed the investigation, but

however, intentionally to support the 4th respondent is delaying filing of charge sheet, is factually incorrect since the charge sheet had been filed before the competent Court on 19.09.2023 itself as per the counter affidavit filed by the 5th respondent and hence, the said plea of the petitioner No.2 in the reply affidavit filed by the petitioner is untenable. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Dated: 15.04.2024

Note: L.R. copy to be marked

b/o

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