

GIB/KN/LC INFRA PROJECTS/03-03-2020/HC-121

High Court Category : INTEREST

State : Karnataka

Order No.: GIB/KN/LC INFRA PROJECTS/03-03-2020/HC-121

Name of Entry :
LC INFRA PROJECTS PVT. LTD.

Date : 03-03-2020

Breif Issue :

Facts & Issue of the case

This Writ Appeal is filed under Section 4 of the Karnataka High Court Act, 1961, praying to set aside the order passed by the learned single judge in writ petition no.28876 of 2019 dated 22.07.2019.

The Judgement passed by single bench on 22.07.2019 is available on following link

[GIB/KN/LC INFRA/22-07-2019/HC-59](#)

In the case before the single bench, the learned single judge has held that issuance of a show cause notice is sine qua non to proceed with the recovery of interest payable under sec 50 of the GST Act and penalty leviable under the provisions of the GST Act and the Rules.

As per authority, a demand for interest in accordance with sub section (1) of Section 50 of Central Goods and Service Tax Act 2017 was made. On the basis of the said demand, consequential action was taken by the tax authorities on 7th March 2019 by which the account of the assessee was attached on account of nonpayment of interest.

The appellant (authority) has accepted before the court that no notice as contemplated under Section 73 of the GST Act was issued to the assessee before quantifying interest amount and attaching Bank account of the assessee. In its favour, the authority invited the attention of court to sub section (1) of Section 50 of the GST Act and submitted that the tax was payable as per the self-assessment made by the assessee and it was not necessary to issue a show cause notice to the assessee as the demand was only as regards to payment of interest under Sub Section (1) of Section 50 of the GST Act. So as per authority, the demand was not for tax and only for interest, so, a notice under Sub Section (1) of Section 73 of the GST Act was not at all necessary and as a consequence of failure to pay interest, consequential action of attachment of the bank account has been taken. Thus the appellant authority contends that, their submissions could not have been held to be illegal on the ground of breach of the principles of natural justice.

Decision of Advance Ruling Authority :**Decision**

In order of division bench of Karnataka High Court, filed against order of single judge bench of Karnataka High Court. **The divisional bench concurred with the ultimate view taken by the learned Single Judge in the previous order dated 22-7-2019, that before recovery interest payable in accordance with Section 50 of the GST Act, a show Cause Notice is required to be issued to the assessee.**

After giving careful consideration to Sub section (1) of Section 50 and sub section (1) to sub section (3) of Section 73 the court is of the view that before penalizing the assessee by making him pay interest the principles of natural justice ought to be complied with before making a demand for interest under sub section (1) of Section 50 of the GST Act, as the consequences of demanding interest and non-payment thereof is very drastic. Hence, no case for interference is made out. The appeal is accordingly dismissed and Interim applications do not survive.