

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.19486 of 2015

and M.P.Nos.1 & 2 of 2015

M/s.Vistra Iron and Steel Enterprises [Petitioner]
rep. by its Managing Partner
Mr.Sheik Mohammed Nizar
No.42-B Canal Road
Kilpauk Chennai-10

Vs

- 1 The Assistant Commissioner (CT)
Kilpauk Assessment Circle
NO.57 59 & 61 & 63 VII Floor
Taylors Road Kilpauk
Chennai-600 010
- 2 The Joint Commissioner (CT)
Central Division PAPJM Buildings
Greams Road Chennai-6

[Respondents]

This Writ Petition under Article 226 of the Constitution of India for the issuance of a Writ of certiorari calling for the records of the respondent in TIN : 33986259302/2014-15 quash the impugned order dated 30.3.2015

For petitioner Mr.V.Sundareswaran
For Respondents Mr.V.Haribabu, AGP(T)

O R D E R

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader(T), who took notice for the respondents.

2. This writ petition is directed against the impugned order dated 30.03.2015 passed in TIN : 33986259302/2014-15 by the Assistant Commissioner (CT), Kilpauk Assessment Circle, Chennai.

3. When the matter is taken up for hearing, learned counsel for the petitioner fairly submitted before this Court that as against the impugned order dated 30.03.2015, the petitioner has filed a revision before the Joint Commissioner(CT), Central Division, the 2nd respondent herein, under Section 54 of the Tamil Nadu Value Added Tax, 2006, along with a petition for condonation of delay of 11 days in filing the review petition.

4. Learned counsel for the petitioner further submitted that the revision petition will be taken up for hearing, only after passing appropriate orders in the condonation of delay petition and when the petitioner is waiting for the revisional authority to take up both the petitions viz., condonation of delay petition and the revision petition, in the meanwhile, the 1st respondent has taken an extreme step by issuing recovery notice, threatening to attach the bank account of the petitioner, if the amount of tax demanded is not paid.

5. It is the contention of the learned counsel for the petitioner that when the correctness of the order impugned in TIN : 33986259302/2014-15 dated 30.03.2015 is the subject matter of revision before the 2nd respondent, it is not legally right on the part of the 1st respondent in issuing the recovery notice, threatening attachment of the bank account of the petitioner.

6. Adding further, learned counsel for the petitioner submitted that in the event of allowing the 1st respondent to proceed with the recovery notice, the entire business of the petitioner would be in darkness. Therefore, according to him, till the 2nd respondent takes and dispose of the revision petition, the recovery notice shall be kept in abeyance. That apart, according to him, as there was bereavement in the petitioner's family, he was unable to immediately act against the impugned order.

7. Considering the submissions made by the learned counsel on either side, finding that the petitioner has already gone before the 2nd respondent by filing a revision petition under Section 54 of the TNVAT Act, along with a petition seeking condonation of delay of 11 days, having satisfied with the reason for the delay that there has been bereavement in the petitioner's family, this Court, directs the 1st respondent not to proceed with the recovery notice till the revision is taken up and finally disposed of on merits and in accordance with law by the 2nd respondent. It is open to the 2nd respondent to consider the pending delay application and then the Revision on merits expeditiously.

The writ petition is disposed of accordingly. No costs.
Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1 The Assistant Commissioner (CT)
Kilpauk Assessment Circle
NO.57 59 & 61 & 63 VII Floor
Taylors Road Kilpauk
Chennai-600 010
- 2 The Joint Commissioner (CT)
Central Division PAPJAM Buildings
Greens Road Chennai-6

+1 cc to Mr.V.Sundareswaran, Advocate sr.33525

+1 cc to Special Government Pleader sr.33301/15

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