IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21053 of 2015

Vadivukarasi
W/o Selvakumar
Prop: Linen World
No.25, Kandappa Mudaliar Street
Puducherry 605 001 ...Petitioner

-vs-

1. The Deputy Collector Revenue (North)
   Revenue Complex
   Puducherry

2. The Tahsildar
   Taluk Office, Puducherry

3. The Deputy Commercial Tax Officer-II
   Commercial Taxes Department
   Puducherry ...Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records on the files of the second respondent herein in the Distraint Order dated 25.06.2015 passed under section 8 of the Pondicherry Revenue Recovery Act and quash the same.

For Petitioner : Mr.P.Suresh

For Respondents : Mrs.N.Mala
Addl.Government Pleader (Pondy)

ORDER

This writ petition has been filed by Mrs.Vadivukarasi, W/o Selvakumar challenging the impugned order dated 25.6.2015 passed by the Tahsildar, Taluk Office, Puducherry, the second respondent herein under Section 8 of the Pondicherry Revenue Recovery Act and to quash the same, on the sole ground that when the petitioner has filed appeals under Section 47 of the Puducherry Value Added Tax Act, 2007 before the Appellate Assistant Commissioner, Commercial Taxes, Puducherry by paying 12.5% of the disputed tax in respect of the years 2011-12 and 2012-13 i.e., Rs.1,24,553/- and Rs.1,23,110/- respectively, during the pendency of the appeals, the second respondent has no authority to invoke the provisions of the Recovery Recovery Act, therefore, the second respondent ought not to have issued the impugned distraint order. Adding further, the learned counsel submitted that when the Tahsildar, Taluk Office, Puducherry was also informed about the pendency of the appeals before the Appellate Assistant Commissioner, Commercial Taxes, Puducherry, he has not come forward to consider the case of the petitioner.

2. Mrs.N.Mala, learned Additional Government Pleader (Pondy) appearing for the respondents, refuting the above submissions, contended before this Court that when there is no order of stay granted by the appellate authority, there is no prohibition on the part of the second respondent to invoke the provisions of the Revenue Recovery Act. However, to give a quietus to the issue, the learned Additional Government Pleader submitted that a direction may be issued to the appellate authority to dispose of the pending appeals on merit at an early date.

3. But this Court finds no justification whatsoever to sustain the impugned order, for the simple reason that when the petitioner has suffered assessment orders passed by the Deputy Commercial Tax officer-II, the third respondent herein, aggrieved by the same, she has filed appeals before the Appellate Assistant Commissioner, Commercial Taxes, Puducherry by paying 12.5% of the disputed tax in respect of the years 2011-12 and 2012-13 i.e., Rs.1,24,553/- and Rs.1,23,110/- respectively, therefore, in all fairness, the second respondent ought not to have hurriedly issued the impugned distraint order dated 25.6.2015.

4. Be that as it may, when the petitioner's appeals are pending for consideration by depositing 12.5% of the disputed tax as mentioned above, this Court finds no embargo to direct the respondents to keep the impugned distraint order in abeyance till the disposal of the pending appeals. Accordingly, this Court, accepting the request made by the learned Additional Government Pleader for the respondents, hereby directs the Appellate Assistant Commissioner, Commercial Taxes, Puducherry to consider the pending appeals dated 19.1.2015 and 28.1.2015 respectively on merit and pass appropriate orders in accordance with law within a period of four weeks from

the date of receipt of a copy of this order. Till such time the impugned distraint order shall be kept in abeyance by the respondents. With the above direction, the writ petition stands disposed of. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Collector Revenue (North)
   Revenue Complex
   Puducherry

2. The Tahsildar
   Taluk Office, Puducherry

3. The Deputy Commercial Tax Officer-II
   Commercial Taxes Department
   Puducherry

4. The Appellate Assistant Commissioner
   Commercial Taxes
   Puducherry

1 CC to P.Suresh, Advocate SR.No. 35456

1 CC to Sr.Government Pleader cum Sr. Public Prosecutor, SR.No. 35665

W.P.No.21053 of 2015

MG (CO)
PSI (05.08.2015)