IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.23478 of 2015
& M.P.Nos.1 and 2 of 2015

M/s.Perfect Vending India Private Limited,
1/46, Pandurangapuram, Padi,
Chennai-600 050,
by its Managing Director Mr.Sanjeev Mohan .. Petitioner

Vs.

1. The Assistant Commissioner (CT)
Amaindakari Assessment Circle,
Kilpauk, Chennai-600 010.

2. The Branch Manager,
State Bank of India,
No.121, 3rd Avenue Road,
Anna Nagar (West),
Chennai-600 040. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned communication of the first respondent in TIN: 33521024562/A3/2015, dated 18.06.2015 addressed to the second respondent, directing the attachment of the Bank account of the petitioner-Company, quash the same and consequently to direct the first respondent to lift the attachment of the Bank Account of the petitioner-Company maintained with the second respondent-Bank.

For petitioner : Mr.N.Viswanathan
For respondents : Mr.A.N.R.Jayaprathap, Govt. Advocate for R-1

ORDER

The petitioner-Company having been formed in the year 2006, is duly registered with the VAT authorities under the provisions of the TNVAT Act. They are engaged in the business of providing vending services, i.e. sale/supply of coffee and tea vending machines to their corporate customers and manufacturing units in Tamil Nadu. As on date, they had been paying the VAT on such sale. The petitioner-Company had been duly filing the monthly Returns before the first respondent. While so, the impugned attachment notice dated 18.06.2015 is issued by the first respondent-Assistant Commissioner (CT) to the second respondent-SBI to attach the Bank Account of the petitioner-Company for recovery of the sales tax arrears as stated therein, under the provisions of the TNVAT Act, with a further direction to the Bank to issue a Pay Order in favour of the first respondent and in case of insufficiency of fund in the credit of the petitioner-dealer's account, the Bank was further directed to issue a Pay Order for the amount available as on date and to keep the attachment order in force till it is withdrawn or till the entire arrears are paid, pursuant to which, it is alleged by the petitioner that the second respondent-Bank attached the petitioner-Company's Bank Account towards the sales tax arrears, resulting in crippling of the business of the petitioner-Company. It is stated that the petitioner-Company paid Rs.10 lakhs towards the above arrears of tax, by crediting the said amount of Rs.10 lakhs to the account of the first respondent-Assistant Commissioner (CT) by way of Demand Draft bearing No.651257 on 06.07.2014, drawn on SBI, Anna Nagar (West) Branch, Chennai and therefore, the petitioner requested the first respondent to grant time to pay the balance amount in instalments. The petitioner states that the first respondent-State ignored the representation dated 22.07.2015 sent in that regard by the petitioner to the Principal Secretary/Commissioner of Sales Tax, resulting in filing of the present Writ Petition seeking to quash the impugned attachment notice and consequently to direct the first respondent herein to lift the attachment of the Bank Account of the petitioner-Company maintained with the second respondent-Bank.

2. From the above facts, it is seen that the petitioner-Company is not disputing the arrears of sales tax, but only expresses their financial constraint and request time for payment of the balance arrears of sales tax in instalments.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent and perused the material documents available on record.

4. Out of the total arrears of Rs.46,62,508/-, it is not disputed that the petitioner has paid Rs.10 lakhs by way of Demand Draft as stated above and the remaining about to be paid is Rs.36,62,508/-.

5. Anyhow, the petitioner is statutorily liable to pay the arrears of sales tax to the Government's Exchequer. Hence, considering the above facts and circumstances of the case, this Court permits the petitioner to pay the entire balance amount of Rs.36,62,508/- (Rupees thirty six lakhs, sixty two thousand, five hundred and eight only) in six equal instalments, first of which shall commence from 10.08.2015, followed by remaining five instalment amounts to be paid on or before 10th of every English calendar month from September 2015 onwards.

6. If the petitioner-Company fails to comply with any one of the above said six instalments, it is open for the respondents to recover the entire arrears of sales tax in one lumpsum in accordance with law.

7. It is evident that to prove their bona-fides, the petitioner-Company has initially deposited Rs.10 lakhs as observed above. Unless the petitioner is permitted to operate their Bank Account(s), the above direction for payment of instalments, could not be complied with by them. Hence, the respondents are hereby directed to permit the petitioner-Company to operate their Bank Account(s) forthwith.

8. With the above observations/direction, the Writ Petition is disposed of. No costs. The Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cs
Copy to
The Assistant Commissioner (CT)
Amaindakarai Assessment Circle,
Kilpauk, Chennai-600 010.

2 cc to Mr. N.Viswanathan, Advocate Sr.No.39735
1 cc to Spl.Government Pleader.Sr.No.40101

W.P.No.23478 of 2015

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pmk.6.8.2015