IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.25810 of 2015
and M.P.Nos.1 & 2 of 2015

M/s.JVC Graphics & Images Pvt. Ltd. [Petitioner]
Repd. by its Director
No.8 Thiru-Vi- Ka Industrial Estate
Chennai-600 032
Now at No.22 Balvadi Street
Nerkundram
Chennai-600 107.

Vs

1 The Assistant Commissioner(CT)
Alandur Assessment Circle Chennai-600 016.

2 The Manager
Bank of India 46 Cathedral Road Branch
Chennai-600 086. [Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the impugned proceedings of the first respondent in Rc.2796/2014/A3 and Form U dated 28.07.2015 addressed to the second respondent and quash the same as issued contrary to the provisions of the Tamil Nadu Value Added Tax Act.

For petitioner :Mr.P.Rajkumar
For respondents :Mr.S.Manoharan Sundaram, AGP(T)(R1)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the 1st respondent and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed challenging the impugned proceedings of the 1st respondent in Rc.2796/2014/A3 and Form U dated 28.07.2015 addressed to the second respondent.

3. The petitioner Company which was started in the year 2007 is involved in the manufacture and installation of all kinds of signages and a registered dealer on the files of the 1st respondent under the

provisions of the TNVAT Act and also under the CST Act. In the year 2011, the petitioner went on an expansion plan and it invested in Vutek UV printing machine, which cost was around Rs.1.80 crores, for which, a loan was obtained from Tata Capital Limited and due to the delay in getting the new machines, the petitioner lost orders and it took almost one year to get regular orders, resulting in payment of loan instalments without adequate revenue generation from the machine. Due to the financial difficulties, the petitioner was not able to pay the sales tax from January 2014. According to the petitioner, they had requested for working capital loan from Bank of India in January 2014, but the loan was not sanctioned. It is the case of the petitioner that in respect of monthly returns filed for the month of April, June, July and August 2014, the petitioner paid tax of Rs.2,95,797/- to the 1st respondent, but as regards arrears for the period from January 2014 to March 2014 and from September 2014, the petitioner orally requested the 1st respondent to grant them time to settle the same as soon as the 2nd respondent bank approves its proposals for credit facility. In the meantime, the 1st respondent issued notices dated 05.06.2015 to the petitioner demanding arrears of Rs.5,95,848/- for the period January 2014 and February 2014 and for the arrears of tax of Rs.8,92,313/- for the period May 2014, September 2014 to March 2015. On receipt of the same, the petitioner's representative appeared before the 1st respondent and requested him to grant them reasonable time to clear the arrears of tax. But, all of a sudden, the petitioner received a phone call from the 2nd respondent that the petitioner's bank account has been attached by the 1st respondent through the impugned proceedings towards arrears of tax of Rs.16,32,703/-. Aggrieved over the same, the petitioner is before this Court.

4. The learned counsel for the petitioner would submit that the 1st respondent is wrong in attaching the bank account of the petitioner without even serving a copy of the attachment notice to the petitioner as contemplated under Section 45(1) of the Act. It is his further contention that in respect of the assessment year 2014-15, without there being a best Judgment assessment, there cannot be any recovery of tax and also attachment of bank account for the arrears. That apart, according to him, when the petitioner has expressed its difficulty in remitting the tax dues, due the financial struggles and sought time for remitting the arrears, attaching bank account, that too without serving a copy of the same is contrary to the provisions of the Act.

5. At this juncture, the learned counsel for the petitioner would submit that on payment of certain amount quantified by this Court, the petitioner may be permitted to operate the bank account and for payment of the remaining tax amount, sufficient time may also be granted to the petitioner.

6. Considering the facts and circumstances of the case and on considering the submissions made by the learned counsel on either side, this Court is of the view that the petitioner may be permitted to operate the bank account on payment of certain amount and sufficient time may also be given for paying the balance tax amount.

7. In view of the above, on payment of a sum of Rs.3,00,000/- (Rupees three lakhs only) within a period of one week from today, the attachment of petitioner's bank account made in the impugned order dated 28.07.2015 shall be withdrawn forthwith and the petitioner be permitted to operate the bank account. Further, the petitioner shall continue to pay the liability of Rs.13,32,703/- (Rs.16,32,703.00 - Rs.3,00,000.00), in eight equated instalments commencing from 1st October 2015. Any violation in this regard will entitle the Assessing Authority, the respondent herein, to proceed for recovery of the entire arrears.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petitions are closed.

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s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner(CT)
Alandur Assessment Circle Chennai-600 016.

2 The Manager
Bank of India 46 Cathedral Road Branch
Chennai-600 086.

+ 1 cc to Mr.P.Rajkumar, Advocate SR 43750

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 44308

skv(co)
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