IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.27357 of 2015

Tvl. Morgan Industries Limited.
Rep. by its Executive Director
Thiru.P.S.Bhaskaran,
No.C-2, SIPCOT Industrial Estates,
Cuddalore 607 005.

... Petitioner

-Versus-

1.The Special Committee Constituted under Section 16-D of the Tamil Nadu General Sales Tax Act, 1959,
Rep. by its Principal Secretary/Commissioner of Commercial Taxes ,
Ezhilagam 1st Floor, Chepauk,
Chennai 600 005.

2.The Assistant Commissioner (CT),
Cuddalore Taluk,
Commercial Taxes Buildings,
Cuddalore 607 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 1st respondent to consider the representation of the petitioner dated 28.01.2015 submitted to the Special Committee constituted under Section 16-D of the Tamil Nadu General Sales Tax Act, 1959 and dispose of the same at an early date and for a consequential direction to the 2nd respondent not to take coercive steps to collect the arrears of tax and penalty as per his best judgement assessment order TNGST No.4400684/2000-01 dated 20.05.2011 till disposal of the above representation which is now pending before the 1st respondent and to withdraw the garnishee notices dated 20.08.2015 that have been issued to the petitioner's banker and one of the customers of the petitioner.

For Petitioner : M/s.S.P.Asokan and Adithya

For Respondents : Mr.Kanmani Annamalai, AGP

ORDER

Seeking for a mandamus directing the 1st respondent - Special Committee to consider the petition dated 28.01.2015 made by the petitioner and to dispose of the same at an early date and for a consequential directions to the 2nd respondent not to take coercive steps to collect the arrears of tax and penalty till disposal of the above petition which is now pending before the 1st respondent and to withdraw the garnishee notices dated 20.08.2015 that have been issued to the petitioner's banker and one of the customers of the petitioner, the petitioner is now before this court with this writ petition.

2. The petitioner is a manufacturer and a dealer in PVC Electrical Insulation Tapes, Adhesives, etc. The factory of the petitioner industry is situated at Cuddalore. According to the petitioner, in the month of December, 2011, owing to natural calamities, their industry got badly affected and they could not achieve their production target for a long time. While so, the respondent department passed an order of assessment dated 20.05.2011 levying huge tax and penalty. They were under financial crisis and the could not pay such a huge amount as tax as demanded by the respondent department. The petitioner industry is now under revamping. If they are compelled to settle the tax dues, that will lead to disastrous consequences and there will be no alternative other than to wind up the industrial and deprive number of employees of the company of their livelihood.

3. According to the petitioner, under the above circumstances, they made a petition to the 1st respondent on 28.01.2015 challenging the order of assessment dated 20.05.2011 relating to the assessment year 2000-01. The grievance of the petitioner is that though the petition was made as early as on 28.01.2015, no order has been passed on the same by the 1st respondent. However, the 2nd respondent, who is the assessing authority, without waiting for the outcome of the petition pending before the 1st respondent, resorted to coercive steps to collect the tax dues. Hence, the petitioner is now before this court with this writ petition for appropriate relief.

4. Heard both sides and also perused the records carefully.

5. Admittedly, the petition filed under Section 16-D of the TNGST Act, 1959 is pending before the 1st respondent / Special Committee.

6. The learned Additional Government Pleader, on instructions from the respondents, would submit that the petition dated 28.01.2015 said to be pending before the 1st respondent shall be directed to be considered by the Committee within a time frame.

7. Considering the above submissions, without going into the merits of the claim, this court directs the 1st respondent to consider the petition dated 28.01.2015 filed by the petitioner on merits and in accordance with law and pass appropriate orders thereon within a period of four weeks from the date of receipt of a copy of this order. Till passing such an order in the said petition, no recovery proceedings be initiated by the authorities concerned.

8. The writ petition is disposed of with the above directions. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk

To

1.The Principal Secretary/Commissioner of Commercial Taxes , Special Committee Constituted under Section 16-D of the Tamil Nadu General Sales Tax Act, 1959, Ezhilagam 1st Floor,Chepauk, Chennai 600 005.
2.The Assistant Commissioner (CT),Cuddalore Taluk, Commercial Taxes Buildings,Cuddalore 607 001.

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