IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.29084 of 2015
and connected M.Ps.

M/s.Ashok Constructions
Rep. by its Director Mr.K.Sundaramoorthy
Narsankuppam, Sadras Road 603 127 .. Petitioner

Vs

1 The Assistant Commissioner(CT)
Thirukazhukundram Assessment Circle
(Earlier it was Chengalpet Assessment Circle
Thirukazhukundram, Kancheepuram.

2 The Manager
State Bank of India, Kalpakkam Branch,
Kancheepuram District. ..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 TIN: 33271604614/ 2014-2015 A3 dated 1.7.2015 addressed to the second respondent and quash the same as issued without authority of law and also contrary to the provisions of TNVAT Act.

For petitioner Mr. P.Rajkumar
For Respondents Mr.Kanmanni Annamalai, AGP

O R D E R

Mr.Kanmanni Annamalai, learned Additional Government Pleader takes notice for the first respondent.

2. This writ petition is filed under Article 226 of the Constitution of India, challenging the order of the first respondent dated 01.07.2015, and the consequential recovery so made by the second respondent.

3. Petitioner herein is a partnership firm represented by its partner who was earlier the partner of M/s. GEE Constructions and he resigned from the partnership in the year 2009 itself and the same was duly informed to the first respondent herein. Whileso, the first respondent vide impugned order dated 01.07.2015, had issued an order attaching the bank account of the petitioner, for an arrears due by the said M/s. GEE Constructions. It is also the case of the petitioner that for an arrears due by some other firm, the petitioner cannot be made liable to pay, moreover, when the Managing Director of the petitioner is not continuing his services with M/s. GEE Constructions, the impugned order attaching the bank account of the petitioner is illegal. It is also stated that the firm, against which an order of assessment passed, has challenged the same, by writ petition in W.P.No.29083 of 2015. In this factual circumstances, according to the learned counsel for the petitioner the impugned order is liable to be set aside.

4. I have heard the learned Additional Government Pleader on the submissions made by the learned counsel for the petitioner.

5. Admittedly, the petitioner is a separate entity and the Managing Director is not a partner in M/s.GEE Constructions at the time of passing the impugned order and he resigned from the firm much earlier. Moreover, when the said M/s. GEE Constructions has challenged the very assessment order made by filing writ petition, I am of the view that the impugned order of attachment passed against the petitioner's firm is unsustainable. Hence, in the interest of justice, the bank attachment made by the impugned proceedings dated 01.07.2015 by the first respondent is directed to be lifted forthwith and on such an order being communicated to the second respondent, the second respondent Bank is directed to permit the petitioner to operate its bank account.

This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

True Copy

Sub Assistant Registrar

To

1. The Assistant Commissioner(CT)
   Thirukazhukundram Assessment Circle
   (Earlier it was Chengalpet Assessment Circle
   Thirukazhukundram, Kancheepuram.

+1cc to The Special Government Pleader Sr.67148
+1cc to Mr.P.Rajkumar, Advocate sr.66767

W.P.No.29084 of 2015

kk[co]
srg 16/12/2015