IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.10339 of 2002

M/s Sree Saraswathi Mills(P) Ltd.,
Rep. by its Director N.Thiagarajan
Visalakshi Nagar 625 401
Madurai. [Petitioner]

Vs

1 The Deputy Commercial Tax Officer, Thiruthani 631 209.

2. The Appellate Assistant Commissioner (CT), Kanchipuram. [Respondents]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for records relating to the order in Appeal No.6/96 CST dated 26.06.2000 passed by the 2nd respondent herein and the distraint order in RC.No.77/2001/A3 dated 05.03.2002 issued by the 1st respondent.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.S.Manoharan Sundaram, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), for the respondents.

2. This writ petition is filed challenging the order dated 26.06.2000 passed by the 2nd respondent and the distraint order of the 1st respondent dated 05.03.2002.

3. The petitioner, a private limited company, being an assessee on the file of the 1st respondent, was dealing stock transfer to the branch offices outside the State, which includes sales through agents. For the assessment year 1993-94, negativing the claim of the petitioner, relating to Section 6A transactions of the CST Act, an order came to be passed on 08.11.1995, against which, the petitioner preferred an appeal before the Appellate Assistant Commissioner (CT), Kancheepuram, who confirmed the said order on 26.06.2000. Pursuant to the said order, a second appeal

before the appellate Tribunal was not filed. Hence, the department proceeded with the recovery and issued a recovery notice dated 05.03.2002. Challenging the said orders dated 26.06.2000 and 05.03.2000, the petitioner moved this Court by filing this writ petition.

4. This Court, while entertaining the writ petition, granted an interim order of stay on condition that the petitioner has to pay a sum of Rs.4 lakhs by order dated 27.03.2002. However, since time for payment has not been incorporated in the said order, by order dated 08.04.2002, it was clarified that the said payment should be made within a period of two weeks. It is represented that the said order has not been complied with. Hence, this Court is of the view that there is no point in keeping the writ petition pending. The petitioner having failed to challenge the order passed by the Appellate Assistant Commissioner before the Sales Tax Appellate Tribunal, has no locus standi to maintain this writ petition, challenging the distraint proceedings, that too, by not complying the directions of this Court issued on 08.04.2002. Hence, there is no merit in the writ petition. Accordingly the same is dismissed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1 The Deputy Commercial Tax Officer, Thiruthani 631 209.

2. The Appellate Assistant Commissioner (CT), Kanchipuram.

1 cc to Spl.Government Pleader (Taxes), Sr. 44306

W.P.No.10339 of 2002

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