IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.33037 of 2015
and
M.P.No.1 of 2015

M/s.Well Stores (Madras) Private Limited
rep. by its Director R.James .. Petitioner

Vs

1. The Tax Recovery Officer - VII,
   O/o.Additional City Company
   Range - IV, Chennai - 34.

2. The Principal Commissioner of
   Income Tax II,
   O/o.The Principal Commissioner
   of Income Tax, Chennai - 34. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus to direct the second respondent to pass appropriate orders on the objections statement dated 20.04.2015 filed by the petitioner praying to raise the erroneous order of attachment passed by the first respondent vide his order in T.R.No.M 81/2004-05 dated 21.02.2005 within a time stipulated by this Court.

For Petitioner .. M/s.Waraon and Sai Rams
For Respondents .. Mr.T.Pramod Kumar Chopda

ORDER

Seeking a direction to the second respondent to pass appropriate orders on the objections statement dated 20.04.2015 praying to raise the erroneous order of attachment passed by the first respondent vide his order in T.R.No.M 81/2004-05 dated 21.02.2005, the petitioner has filed this writ petition.

2.The petitioner is a private limited company incorporated under the provisions of the Companies Act, 1956 and it is in absolute possession and enjoyment of certain extent of properties. When the petitioner obtained encumbrance certificate in respect of the said properties, they came to know that there was an order of attachment by the first respondent.

On enquiry, it came to light that the first respondent erroneously included the lands owned by the petitioner in the list of the properties to be attached for the recovery of income tax dues of the said M/s.Maxwell Exim Private Limited and the said fact was also communicated by the first respondent to the Sub Registrar, Joint -I, Saidapet, Chennai. Therefore, the petitioner filed an objection statement against the wrongful attachment of the properties of the petitioner on 20.04.2015 before the second respondent and prayed for raising the order of attachment. Since no orders have been passed on the said representation/objection, the petitioner is before this Court.

3.Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

4.Learned counsel for the petitioner submitted that the objection of the petitioner is still pending and the respondents may be directed to consider the same and pass orders.

5.Learned standing counsel for the respondents submitted that the first respondent/Tax Recovery Officer VII, Chennai may be directed to consider the representation/objection dated 20.04.2015.

6.Admittedly, the petitioner has not made any representation to the first respondent - The Tax Recovery Officer VII, Chennai, who is the competent authority to consider the representation/objection. Hence without going into the merits of the case, the petitioner is permitted to submit a representation/objection to the first respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to consider the representation/objection dated 20.04.2015 and pass orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of two weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

mmi

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Tax Recovery Officer - VII,
   O/o.Additional City Company
   Range - IV, Chennai - 34.

2.The Principal Commissioner of
   Income Tax II,
   O/o.The Principal Commissioner
   of Income Tax, Chennai - 34.

+ 1 cc to M/s.Waraan and Sai Rams, Advocate SR 56759

+ 1 cc to Mr.T.Pramodkumar Chopda, Advocate SR 56150

pa(co)
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W.P.No.33037 of 2015