IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6/11/2015

C O R AM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.36004 of 2015
a n d
M.P.Nos.1 and 2 of 2015

D.Rajalingam
Proprietor, M/s.Lakshmi Metal
49, 3rd Street
Sivasakthi Colony
Ganapathy
Coimbatore 641 006. ... Petitioner

Vs

1. The Commercial Tax officer
CT Buildings
Thanjavur Bue-Pass Road
Tiruvarur 610 001.

2. The Assistant Commissioner (CT)
Avarampalayam Assessment Circle
Dr.Balasundaram Road
Coimbatore 641 018. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the second respondent dated 13/10/2015 in Form-U, attaching the bank account of Tvl.Lakshmi Metal, Coimbatore maintained at the City Union Bank, P.N.Palayam Branch, Coimbatore 37 for the alleged arrears of the Petitioner Connection and quash the same as illegal, arbitrary and against the principles of natural justice.

For petitioner ... Mr.K.Soundararajan

For respondents ... Mr.B.Manokaram Sundaram
Additional Government Pleader

O R D E R

This writ petition has been filed praying to quash the order passed by the second respondent dated 13/10/2015 in

Form-U, attaching the bank account of the petitioner maintained at the City Union Bank, P.N.Palayam Branch, Coimbatore 37 for the alleged arrears of the Partnership Firm viz., M/s.Dekshinamoorthy & Co.

2. Heard Mr.K.Soundararajan for the petitioner and Mr.B.Manokaran Sundaram, learned Additional Government Pleader for the respondents.

3. The petitioner seeks for the issuance of a writ of certiorari to quash the order of attachment for the dues payable by the partnership firm as per the notice dated 3rd June 2015.

4. It is seen that in respect of the assessment under CST for the assessment year 2001 - 2002, the petitioner filed a writ petition before this Court in W.P.No.14296 of 2011. The said writ petition was allowed and the order of assessment has been quashed and the matter has been remitted back to the assessing authority for fresh consideration.

5. In the light of the same, the assessment order passed by the assessing authority has been set aside and the attachment of the petitioner's Bank account could at best be adjusted to the arrears of TNGST for the assessment year 2005 - 2006. This aspect of the matter was also brought to the notice of the authority by the petitioner vide his representation dated 18th June 2015 and it appears that the first respondent has not raised an order of attachment at least to that extent and therefore, the petitioner is before this Court.

6. In the light of the above, there will be a direction to the first respondent to consider the reply of the petitioner dated 18th June 2015 and verify as to whether the assessment proceedings under the CST for the assessment year 2001 - 2002 has been completed pursuant to the order of remand passed by this court on 25th August 2011 in W.P.No.14296 of 2011 and if it is not so, then, the attachment of the petitioner's Bank account should be lifted for the dues under the CST for the assessment year 2001 - 2002. In respect of the dues under the TNGST for the assessment year 2005 - 2006, the petitioner can secure the amount of Rs.2,73,324/- by way of Bank guarantee and on being so, the order of attachment can be lifted. In the event of assessee has filed an appeal as against the order of attachment for the assessment year 2005 - 2006, then the assessee shall bring to the notice of the first respondent regarding any interim order that was passed by the appellate authority.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mvs.

To
1. The Commercial Tax officer
CT Buildings
Thanjavur Bue-Pass Road
Tiruvarur 610 001.

2. The Assistant Commisisoner (CT)
Avarampalayam Assessment Circle
Dr.Balasundaram Road
Coimbatore 641 018.

+1 cc to Mr.K.Soundararajan, Advocate, sr.61649

W.P.No.36004 of 2015

msm co
kra 16.12.2015