IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4020 of 2015
and
M.P.No. 1 of 2015

City Aircon,
No.235, Nehru Street,
Tindivanam-604 001. ...Petitioner

Vs

1. The Commercial Tax Officer (Main)
136, 137, Nehru Street, (State Bank upstair)
Tindivanam.

2. The Manager,
City Union Bank,
Tindivanam. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in respect of the letter of the first respondent RC/A3 2379/2014 dated 09.01.2015 to the second respondent Officer and its enclosures, quash the same.

For Petitioner : Mr. S.P.Asokan

For Respondent : Mr.ANR.Jayapratap, AGP(T)

O R D E R

The petitioner has come forward with this writ petition challenging the order of the first respondent dated 09.01.2015.

2. The case of the petitioner is that the petitioner has not been served with the original notice and an order has been passed by the officer/first respondent on 10.10.2014. The petitioner further stated that the petitioner has filed a petition for reassessment

under Section 22(6) of the Tamil Nadu Value Added Tax Act 2006 (hereinafter called as 'the Act') along with the correct and complete returns for the year 2012-13. Learned counsel for the petitioner has submitted that though the turnover for the year 2012-13 was less than Rs.10 crores, the petitioner was not liable to pay tax for the year 2012-13 in view of Section 3(1)(b) of the Act. After the receipt of the assessment order passed under Section 22 (4) of the Act, 2006, the petitioner has submitted the petition praying for fresh assessment under Section 22(6) which was despatched to the authority on 12.12.2014 and in support of the same, a copy of the postal receipt filed in page 9 of the typed set of papers. In the mean while, the order of attachment has been passed by the Commercial Tax Officer (Main) Tindivanan, on 09.01.2015 and sent to the Manager, City Union Bank, Tindivanam for execution. Learned counsel for the petitioner submitted that the petitioner has not received any attachment order, but he was intimated by the Bank stating that the petitioner's bank account has been attached.

3.The learned counsel for the respondent submitted that there is no evidence to prove that the so-called application sent by the petitioner on 12.12.2014 was received by the respondents.

4.Heard both sides.

5.This Court makes it very clear that if the application has been filed by the petitioner under Section 22(6) of the Act and if it was reached to the respondent before passing the impugned order, this Court directs the authority to keep the impugned order in abeyance and consider the the petition which was said to have been sent on 12.12.2014 by the petitioner and if it is pending before him. The petitioner shall ensure that he sent the petition on 12.12.2014 by appearing in person before the authority and on producing the acknowledgement card to the effect that the authority has received the same. If the version of the petitioner is true and the petition has been received and pending before the authority, the impugned order shall be kept in abeyance until the orders passed in the said application said to have been made by the petitioner under Section 22 (6) of the Act and the authority is directed to consider the same on merits and dispose of the same by passing appropriate orders in accordance with law. In case, the petitioner unable to satisfy the authority that the application has been made by him, it is made clear that the impugned order dated 9.01.2015 stands confirmed.

6.With the above observation, the writ petition is disposed of. No costs. Consequently , connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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1. The Commercial Tax Officer (Main)
136, 137, Nehru Street, (State Bank upstair)
Tindivanam.

2. The Manager,
City Union Bank,
Tindivanam.

1 CC to Mr. S.P.Asokan, Advocate SR.No. 8625

1 CC to the Spl. Government Pleader, SR.No. 8746

W.P.No.4020 of 2015
And
M.P.No.1 of 2015

RSK (CO)
PSI (05.03.2015)