IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-03-2015

Coram :

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

WP No. 5819 of 2015
and
M.P. No. 1 of 2015

M/s. Chandra Textiles Private Limited
11318, Avanashi Road
rep. by its Director
Peelamedu
Coimbatore - 641 004 .. Petitioner

Versus

The Assistant Commissioner (CT)
Peelamedu North Assessment Circle
Coimbatore .. Respondent

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorari to call for the records of the respondent in TIN-33912120011 and quash the Form U notice dated 20.01.2015, culminating in the Form 1 distraint notice dated 28.01.2015 issued by the respondent herein.

For Petitioner : Ms. Hema Muralikrishnan
For Respondent : Mr. Kanmani Annamalai
Additional Government Pleader (Tax)

ORDER

The petitioner is an assessee on the file of the respondent. The petitioner is engaged in the business of purchase of cotton yarn and coverts the same into cotton cloth. The petitioner is also engaged in the business of bleaching and dyeing of cotton yearn, cotton cloth/fabrics for third parties.

2. As far as the payment of tax is concerned, in respect of assessment years TNGST 1996-1997, Tax Case in TC (R) No. 48 of 2014 filed by the petitioner is pending before this Court. For assessment year 1999-2000, it is the subject matter of dispute in TC (R) No. 46 of 2014 before this Court. The assessment order for the year 2001-2002 is the subject matter in TC (R) No. 50 of 2014 pending before this Court. For the assessment year 2002-2003, appeal is pending before the Appellate Authority. In respect of assessment for CST 1996-1997 and 1997-1998, they are covered in WP Nos. 34732 and 34733 of 2004 and pending before this Court for adjudication. For the assessment year CST 2002-2003, WP No. 2465 of 2005 is pending before this Court. According to the petitioner,

in all these cases, the demand made by the respondent is questioned on the ground that they are huge, excessive and not on the basis of the transaction made by the petitioner. In other words, the demand made by the respondent is 50% more than the amount allegedly payable by the petitioner. While so, during the last week of January 2015, a sum of Rs.1,34,000/- was deducted by the petitioner's bankers viz., Andhra Bank, Oppanakara Street, Coimbatore from their account and when enquired, a copy of the Form U proceedings issued by the respondent was shown to them. As per the Form U notice dated 20.01.2015, it was alleged by the respondent that the petitioner is in arrears of Rs.2,70,54,923/- for the assessment years 1996-1997, 1997-1998, 1999-2000, 2001-2002 and 2002-2003.

3. The learned counsel for the petitioner would contend that the amount reflected in Form U notice dated 20.01.2015 issued by the respondent in respect of various assessment years are the subject matter of Tax Cases and/or Writ Petitions or Statutory Appeal pending before the Statutory Forum. When the matter is subjudice, the respondent has no right to issue the impugned proceedings to attach the bank account of the petitioner. The impugned proceedings have been issued to the bankers of the petitioner without a copy of it being served on them. Therefore, it is submitted that the entire proceedings of the respondent are in violation of principles of natural justice and on that ground, he prayed for allowing the writ petition.

4. On the above contention, this Court heard the learned Additional Government Pleader appearing for the respondent.

5. It is seen from the records that in respect of the assessment made by the respondent for the assessment years 1996-1997, 1997-1998, 1999-2000, 2001-2002 and 2002-2003, the petitioner has filed Tax Case Revision Case, writ petitions and Statutory Appeals before the Appellate Authority and they are pending before this Court/Appellate Forum in various stages. In all those cases, the petitioner disputed the tax levy and alleged that they are not in accordance with the transactions made by the petitioner. It is also seen that as per the interim order granted by the appellate Court, the petitioner also paid 25% of the tax amount. While so, when the Tax Revision Cases and/or writ petitions or Statutory Appeal filed by the petitioner is pending, the respondent, without affording any opportunity to the petitioner issued the impugned notice to the petitioner's bankers. Such an action taken by the respondent behind the back of the petitioner cannot be countenanced. Therefore, I am of the view that the impugned order passed by the respondent is not sustainable and is in violation of the principles of natural justice. The impugned order is therefore set aside. The Writ Petition is allowed as prayed for. No costs. The respondent is directed to await the outcome of the Tax Case Revision/Writ Petition or Statutory Appeal filed by the petitioner pending before the Appellate Authority and on the basis of the outcome of those cases, the respondent shall proceed further against the petitioner. The respondent is also directed to raise the order attaching the bank account of the petitioner with Andhra Bank, Oppanakkara Street,

Coimbatore forthwith. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Assistant Commissioner (CT)
Peelamedu North Assessment Circle
Coimbatore.

1 cc to Mr. Hemamuralikrishnan,Advocate, SR.No.12294
1 cc to Special Government Pleader(Taxes),Sr.No12253

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ctk(co)
pmk.30.3.2015