IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.03.2015

C O R A M

THE HONOURABLE Mr.JUSTICE S. VAIDYANATHAN

W.P.No.7342 of 2015
and
M.P.Nos.1 & 2 of 2015

M/s.Cavin Kare Pvt.Ltd.,
Registered under the provisions
of Indian Companies Act, 1956
Represented by its Commercial Manager,
Mr.R. Raghunathan
No.S-3, SIDCO Industrial Estate,
Semmandalam
Cuddalore ...Petitioner

Vs.

1.The Assistant Commissioner (CT),
Cuddalore Taluk Assessment Circle,
Semmandalam,
Cuddalore.

2.Appellate Deputy Commissioner (Ct) Appeals
Cuddalore. ...Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the first respondent from proceeding with the recovery as per the Revenue Recovery Act, 1884 pursuant to the impugned final notice dated 05.03.2015 in TIN: 33784401571/2009-10 for the A.Y 2009-10 until the adjudication of the Stay Petition in A.P.No.214/2014 (VAT) of 2014 is completed by the second respondent.

For Petitioner : M/s. R. Sivaraman
For Respondents : Mr. A.N.R.Jayapratap (Taxes)
Addl. Govt. Pleader

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O R D E R

Petitioner has filed this writ petition seeking to quash the notice of the second respondent in TIN: 33784401571/2009-10 for the A.Y 2009-10 dated 05.03.2015.

2. Heard learned counsel for petitioner and learned Additional Government Pleader (Taxes).

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3. It is not in dispute that the petitioner has preferred an appeal against the order of the original authority. The petitioner has also deposited 25% of the disputed amount as contemplated under the Tamil Nadu Value Added Tax Act, 2006. For want of Presiding Officer, the appeal and the stay petition could not be heard. However, the second respondent having knowledge of the fact that there is no Presiding Officer, without waiting for an order on the stay petition, had issued the impugned notice directing the petitioner to pay the remaining amount failing which coercive action would be taken against it.

4. When there is no Presiding Officer, the petitioner cannot be blamed. Admittedly, the petitioner has deposited 25% of the disputed amount as contemplated under the Tamil Nadu Value Added Tax Act, 2006. This fact is also not disputed by the respondents. When a stay petition is pending, if no orders have been passed by the appellate authority, more so, for want of appellate authority, the final notice issued by the second respondent, which is impugned in this writ petition, is not correct and is liable to be set aside.

5. This Writ Petition is allowed. The notice of the second respondent in TIN: 33784401571/2009-10 for the A.Y. 2009-10 dated 05.03.2015, is set aside. The appellate authority, if any, appointed or nominated is directed to hear the stay petition. Depending upon the outcome of the stay petition and in case, any condition imposed therein is not complied with, it is open to the authorities concerned to take steps to recover the balance amount. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To
1.The Assistant Commissioner (CT),
Cuddalore Taluk Assessment Circle,
Semmandalam, Cuddalore.

2.Appellate Deputy Commissioner (Ct) Appeals, Cuddalore.

+1 cc to Spl.Government Pleader,SR.14983.

vsn(co)
krd 27/3

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