IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8205 of 2015

Tvl.Jayapriya Builders,
represented by its Partner
Mr.C.R.Jayasankar,
Subasri Complex,
Chennai-Kumbakonam Road,
Neyveli Arch Gate,
Neyveli, Cuddalore District. ...Petitioner

vs.

1.Appellate Deputy Commissioner of Commercial Taxes,
No.9, C.T.Building,
Sub Jail Road,
Manjakuppam,
Cuddalore - 607 001.

2.Commercial Tax Officer,
Panruti (Rural) Assessment Circle,
First Floor,
Commercial Taxes Building,
Kumbakonam Road,
Taluk Office Complex,
Panruti.

3.The Branch Manager,
Lakshmi Vilas Bank,
Mantharakuppam,
Neyveli.

4.The Branch Manager,
State Bank of India,
Mantharakuppam,
Neyveli. ...Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to withdraw the garnishee notices dated 06.03.2015 and 14.03.2015 issued to respondents 3 and 4 respectively in respect of tax and penalty amounts disputed by the petitioner in Appeals AP Nos.121/2014, 122/2014 and 123/2014 pending before the first respondent and to defer coercive recovery steps to collect them till the disposal of the said appeals by the first respondent.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.Manoharan Sundaram,
Additional Government Pleader (Taxes)

O R D E R

Petitioner has filed this writ petition seeking a direction to the second respondent to withdraw the notices dated 06.03.2015 and 14.03.2015 issued to respondents 3 and 4 respectively in respect of tax and penalty amounts disputed by the petitioner in Appeals AP Nos.121/2014, 122/2014 and 123/2014 pending before the first respondent and to defer coercive recovery steps to collect them till the disposal of the said appeals by the first respondent.

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

3. It is not in dispute that the petitioner has preferred appeals 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 appeals and the stay petitions 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 petitions, had issued the impugned notices.

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 stay petitions are pending, if no orders have been passed by the appellate authority, more so, for want of appellate authority, the final notices issued by the second respondent, which are impugned in this writ petition, are not correct and are liable to be set aside.

This Writ Petition is allowed. The impugned notices of the second respondent are set aside. The appellate authority, if any, appointed or nominated is directed to hear the stay petitions. Depending upon the outcome of the stay petitions 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1.The Appellate Deputy Commissioner of Commercial Taxes,
No.9, C.T.Building,
Sub Jail Road,
Manjakuppam,
Cuddalore - 607 001.

2.The Commercial Tax Officer,
Panruti (Rural) Assessment Circle,
First Floor,
Commercial Taxes Building,
Kumbakonam Road,
Taluk Office Complex,
Panruti.

3.The Branch Manager,
Lakshmi Vilas Bank,
Mantharakuppam,
Neyveli.

4.The Branch Manager,
State Bank of India,
Mantharakuppam,
Neyveli.

1 cc to Spl.Government Pleader,Sr.No.16536
1 cc to Mr. S.P.Asokan,Advocate, SR.No.16579

W.P.No.8205 of 2015

rsy(co)
pmk.10.4.2015