IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.1741 and 1742 of 2004

S. Ananthakrishnan Petitioner in W.P.No.1741 of 2004

S.Govindasamy Chettiar Petitioner in W.P.No.1742 of 2004

Vs

1. The Commercial Tax Officer,
   Commercial Tax Office,
   Tiruvannamalai 606 602.

2. The Commissioner,
   Commercial Taxes,
   Ezhilagam,
   Chepauk,Chennai-5. Respondents in both Writ Petitions

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of Certiorari to call for the records relating to the demand notice dated 29.12.2002 and the distraint order dated 29.12.2002 issued and passed by the first respondent under Section 25 and 8 of the Revenue Recovery Act with respect to the petitioner's land and building situated in Survey Nos.160 and 105, Patta Nos.339 and 349 at Vanapuram Village, Chengam Taluk, Tiruvannamalai District and quash the same.

For Petitioners : Mr.P. Mani

For Respondents : Mr.S.Manoharan Sundaram, AGP

COMMON ORDER

Heard the learned counsel for the petitioners and Mr.S.Manoharan Sundaram, learned Additional Government Pleader.

2. These Writ Petitions are filed challenging the impugned demand notice dated 29.12.2002 and the distraint order dated 29.12.2002 passed by the first respondent with respect to the petitioners' land and consequently quash the same.

3. The challenge in these Writ Petitions is the recovery notice dated 29.12.2002 issued by the 1st respondent under Sections 25 and 8 of the Revenue Recovery Act in respect of the land in question. According to the learned counsel for the petitioners, the arrears of the erst while owner of the property was sought to be recovered from the petitioners, pointing out the charge created by the respondent Department. Challenging the same, the present Writ Petitions have been filed .

4. When the matters are taken up for final disposal, learned counsel for the petitioners produced a certificate of settlement of arrears under the Samadhan Scheme, wherein the defaulter, namely, the seller, whose property is sought to be attached by the Department, was in arrears, had settled the entire arrears and obtained the certificate of settlement above referred in Rc.C3/12462/2010 dated 5.8.2011. Since the entire arrears being settled, the recovery notices sought to be quashed in these writ petitions does not survive. Accordingly, the Writ Petitions are closed.

5. Learned counsel for the petitioners further submitted that at the time of admission, this Court has granted interim stay in W.P.M.P.Nos.1890 and 1891 of 2004 on the following terms;

> " Interim stay on condition the petitioners in each of these writ petitions deposits a sum of Rs.25,000/- each within six weeks from the date of receipt of copy of this order"

In view of the above, it is open to the petitioners to make necessary applications for refund of the above said amount and on such applications for refund being made, the same shall be considered and ordered within a period of two weeks from the date of receipt of a copy of this order. No costs.

sd/-
Assistant Registrar(Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

msr

To

1. The Commercial Tax Officer,
   Commercial Tax Office,
   Tiruvannamalai 606 602.

2. The Commissioner,
Commercial Taxes,
Ezhilagam,
Chepauk, Chennai-5.

+1 CC to MR. Advocate. SR.NO.66025
+1 CC to Special Govt.Pleader. SR.NO. 66445

W.P.Nos.1741 and 1742 of 2004

CO-MP
JD 19/01/2016