BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.12.2015
CORAM :
THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Review Application (MD)Nos.56 to 66 of 2015 in W.P(MD)Nos.754, 756, 761, 762, 765, 764, 755, 757, 758, 761 and 759 of 2013

& Review Application (MD)Nos.162 to 167 of 2015 in W.A(MD) Nos.46 and 47 of 2009, 601, 602, 600 of 2008 & 48 of 2009

K.GOVINDARAJ ... PETITIONER IN REV.APLW(MD)NO.56TO66/2015 AND IN REV.APLW.(MD)NO.162 TO 166 OF 2015

Vs.

<u>Review Application (MD)Nos.56 to 66 of 2015:</u>

1.M/S.VARUNI BIOMASS ENERGY PRODUCTS (P) LTD.,
REP.BY ITS DIRECTOR K.K.SURENDRANATH
6/1, MANJANAKARA STREET,
MADURAI.

2.THE JOINT COMMISSIONER,
COMMERCIAL TAX (FAC),
MADURAI. ..RESPONDENTS IN REV.APLW(MD) NOS.56 TO 66 OF 2015

<u>Review Application (MD)Nos.162 to 167 of 2015:</u>

1 THE DISTRICT COLLECTOR
DINDIGUL DISTRICT, DINDIGUL.
2 THE TAHSILDAR
NILAKOTTAI TALUK, DINDIGUL DISTRICT.
3 THE REVENUE INSPECTOR
NILAKOTTAI, DINDIGUL DISTRICT.
4 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE, NILAKOTTAI TALUK,
DINDIGUL DISTRICT.
5 THE DEPUTY COMMISSIONER (COMMERCIAL TAXES),
MADURAI.
6 THE ASSISTANT COMMISSIONER(CT) MADURAI EAST,
MADURAI.
7 THE DEPUTY COMMERCIAL TAX OFFICER, NILKOTTAI,
DINDIGUL DISTRICT.
8 K.K.DINAKARAN
9 M/S. VARUNI BIOMASS
ENERGY PRODUCTS (P) LTD,
6/1, MANJANAKARA STREET, MADURAI.
10 K.K.SURENDRANATH
11 K.K.GNANA PRABHAKARAN
12 K.K.KARUNAKARAN ... Respondents in REV.APLC(MD).162/2015

1 THE DISTRICT COLLECTOR
DINDIGUL DISTRICT, DINDIGUL.
2 THE TAHSILDAR NILAKOTTAI TALUK, DINDIGUL DISTRICT.
3 THE REVENUE INSPECTOR NILAKOTTAI, DINDIGUL DISTRICT.
4 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE, NILAKOTTAI TALUK, DINDIGUL DISTRICT.
5 THE DEPUTY COMMISSIONER (COMMERCIAL TAXES),
MADURAI.
6 THE ASSISTANT COMMISSIONER(CT) MADURAI EAST, MADURAI.
7 THE DEPUTY COMMERCIAL TAX OFFICER, NILKOTTAI, DINDIGUL DISTRICT.
8 M/S. VARUNI BIOMASS ENERGY PRODUCTS (P) LTD,
REP BY ITS DIRECTOR K.K.SURENDRANATH,
6/1, MANJANAKARA STREET, MADURAI.

... Respondents in REV.APLC(MD).163/2015

1 VARUNI BIOMASS ENERGY PRODUCTS PRIVATE LTD.,
REP BY ITS DIRECTOR, K.K. SURENDRANATH,
6/1, MAJANAKARA STREET, MADURAI-1, TAMILNADU.
2 THE DISTRICT COLLECTOR
DINDIGUL DIST.
3 THE TAHSILDAR
NILAKOTTAI TK, DINDIGUL DIST.
4 THE REVENUE INSPECTOR
NILAKOTTAI, DINDIGUL DIST.
5 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE,NILAKOTTAI TK, DINDIGUL DIST.
6 THE DEPUTY COMMERCIAL (COMMERCIAL TAX),
MADURAI.
7 THE ASSISTANT COMMISSIONER(CT)
MADURAI DISTRICT
8 THE DEPUTY COMMERCIAL TAX OFFICER,
NILAKOTTAI, DINDIGUL DISTRICT.

... Respondents in REV.APLC(MD). 164/2015

1 K.K. DINAKARAN
2 THE DISTRICT COLLECTOR
DINDIGUL DIST.
3 THE TAHSILDAR,
NILAKOTTAI DINDIGUL DIST.
4 THE REVENUE INSPECTOR
NILAKKOTTAI, DINDIGUL DIST.
5 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE, NILAKOTTAI TK, DINDIGUL DIST.
6 THE DEPUTY COMMISSIONER TAX OFFICER,
NILAKKOTTAI, DINDIGUL DIST.
7 THE ASSISTANT COMMISSIONER(CT)
MADURAI EAST, MADURAI.
8 THE DEPUTY COMMERCIAL TAX OFFICER,
NILAKOTTAI, DINDIGUL DIST.
9 VARUNI BIOMASS ENERGY PRODUCTS (P)LTD.,
6/1, MANJANAKARA STREET, MADURAI.

10 K.K.SURENDRANATH S/O. K.V. KRISHNA IYER,
11 K.K.GNANA PRABHAKARAN S/O. K.V.KRISHNA IYER,

12 K.K.KARUNAKARAN S/O. K.V. KRISHNA IYER,

... Respondents in REV.APLC(MD). 165/ 2015

1 M/S.VARUNI BIOSMASS, ENERGY PRODUCTS(P)LTD,
REP BY ITS DIRECTOR, K.K.SURENDRANATH,
6/1, MANJANAKARA STREET, MADURAI-1 TAMIL NADU.
2 THE DISTRICT COLLECTOR,
DINDIGUL DISTRICT, DINDIGUL.
3 THE REVENUE INSPECTOR,
NILAKOTTAI DINDIGUL DT.
4 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE, NILAKOTTAI TK, DINDIGUL DT.
5 THE ASSISTANT COMMISSIONER(CT)
MADURAI EAST, MADURAI.
6 THE DEPUTY COMMERCIAL TAX OFFICER,
NILAKOTTAI, DINDIGUL DT.
7 THE SUB REGISTRAR,
SUB REGISTRAR OFFICE, NILAKOTTAI, DINDIGUL DISTRICT.

... Respondents in REV.APLC(MD). 166/ 2015

1 THE DISTRICT COLLECTOR,
DINDIGUL DISTRICT, DINDIGUL.
2 THE REVENUE INSPECTOR,
NILAKOTTAI DINDIGUL DT.
3 THE VILLAGE ADMINISTRATIVE OFFICER,
KULLALAGUNDU VILLAGE, NILAKOTTAI TK, DINDIGUL DT.
4 THE ASSISTANT COMMISSIONER(CT)
MADURAI EAST, MADURAI.
5 THE DEPUTY COMMERCIAL TAX OFFICER,
NILAKOTTAI, DINDIGUL DT.
6 THE SUB REGISTRAR,
NILAKOTTAI, DINDIGUL DISTRICT.
7 M/S.VARUNI BIOSMASS, ENERGY PRODUCTS(P)LTD,
REP BY ITS DIRECTOR, K.K.SURENDRANATH,
6/1, MANJANAKARA STREET, MADURAI.

... Respondents in REV.APLC(MD). 167/ 2015

Prayer in REV.APLW(MD). 56/ 2015 : To review the order passed in W.P(MD)No.754 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 57/ 2015 : To review the order passed in W.P(MD)No.756 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 58/ 2015 : To review the order passed in W.P(MD)No.761 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 59/ 2015 : To review the order passed in W.P.(MD)No.762 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 60/ 2015 : To review the order passed in W.P.(MD)No.763 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 61/ 2015 : To review the order passed in W.P.(MD)No.764 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 62/ 2015 : To review the order passed in W.P.(MD)No.755 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 63/ 2015 : To review the order passed in W.P.(MD)No.757 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 64/ 2015 : To review the order passed in W.P.(MD)No.758 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 65/ 2015 : To review the order passed in W.P(MD)No.760 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD). 66/ 2015 : To review the order passed in W.P.(MD)No.759 of 2013 dated 04.07.2014.

Prayer in REV.APLW(MD).162/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.46 of 2009 dated 04.07.2014.

Prayer in REV.APLW(MD).163/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.47 of 2009

Prayer in REV.APLW(MD).164/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.601 of 2008

Prayer in REV.APLW(MD).165/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.602 of 2008

Prayer in REV.APLW(MD).166/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.600 of 2008

Prayer in REV.APLW(MD).167/2015: Review Petition filed under Order XLVII Rule 1 and r/w Section 114 of the Code of Civil Procedure, to review the order passed in W.A(MD)No.48 of 2009.

Prayer in WP(MD). 754/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(1) (TNGST No.4820785/94-95) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 756/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(8) (CST No. 105849/95-96) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 761/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(10) (CST. No.105849/97-98) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 762/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(5) (TNGST No. 4820785/98-99) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 764/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(6) (TNGST. No.4820785/99-2000) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 755/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(7) (CST. No.105849/94-95) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 757/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(2) (TNGST No.4820785/95-96) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 758/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(3) (TNGST. No.4820785/96-97) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 761/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(10) (CST. No.105849/97-98) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 763/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(11) (CST No.105840/98-99) dated 27.12.2012 and quash the same.

Prayer in WP(MD). 759/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the Respondent in Roc.No.706/12/A7-(9) (CST No. 105849/96-97) dated 27.12.2012 and quash the same.

Prayer in WA(MD). 46/ 2009 :

To set aside the common order dated 17.09.2008 passed in WP(MD). 5324/2008 on the file of this Honourable Court.

Prayer in WA(MD). 47/ 2009 :

To set aside the common order dated 17.09.2008 passed in WP(MD). 4378/2008 on the file of this Honourable Court.

Prayer in WA(MD). 601/ 2009 :

To set aside the order dated 12.02.2009 made in WP.1178/2009 on the file of this Honourable Court and allow this Writ Appeal and thus render justice.

Prayer in WA(MD). 602/ 2009 :

To set aside the order dated 10.06.2009 made in WP.750/2005 and allow the Writ Appeal as prayed for and thus render justice.

Prayer in WA(MD). 600/ 2009 :

To set aside the order dated 08.10.2009 in MP(MD).1/2009 in WP (MD).3266/2008 on the file of this Honourable Court and allow this Writ Appeal and thus render justice.

Prayer in WA(MD). 48/ 2009 :

To set aside the common order dated 17.09.2008 passed in WP(MD). 3847/2008 on the file of this Honourable Court.

Prayer in WP(MD). 5324/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the 7th respondnt dated 12/03/2008 in Na.Ka.No. 3088/02-A3 and the consequential order of the 5th respondent in Roc. No. 10267/2003/a7 dated 26/03/2008 confirming the auction sale dated 19/03/2008 and the consequential sale certificate dated 21/04/2008 issued by the 7th respondent and quash the same.

Prayer in WP(MD). 4378/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of certiorari, calling for the records of the 5th respondent in ROC. 10267/2003/a7 dated 26/03/2008 confirming the auction sale dated 19/03/2008 and the consequential Sale Certificate dated 21/04/2008 issued by the 7th respondent and quash the same.

Prayer in WP(MD). 3847/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari, calling for the records of the 5th respondent dated 12/03/2008 in Na.ka.No. 3088/02-dA3 and quash the same

For Petitioner
in all Applications : Mr.G.R.Swaminathan
for Mr.N.Madhava Govindan

For Respondents
in all Applications : Mr.K.Govindarajan for R1

: Mr.Raja Karthikeyan
Additional Govt Pleader (Taxes) for R2

* * * * *

COMMON ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN,J.)

All these petitions are by an auction purchaser, seeking a review of common order passed by the Honourable Division Bench on 04.07.2014 in a batch of six writ appeals and eleven writ petitions taken up together for disposal.

2. Heard Mr.G.R.Swaminathan, learned counsel appearing for the review applicants, Mr.Raja Karthikeyan, learned Additional Government Pleader (Taxes) appearing for the official respondents and Mr.K.Govindarajan, learned Counsel appearing for the assessee Company which is a contesting respondent.

3. The first respondent in all these review petitions was an assessee at the hands of the Joint Commissioner of Commercial Taxes, Madurai, who is the second respondent herein. They were granted the benefit of interest free Sales Tax Deferral Scheme, for a period of nine years from 29.05.1994 to 28.05.2003.

4. Even before the entire duration of the Deferral Scheme was over, the Department claimed that the assessee became ineligible and that therefore they must pay arrears of Sales Tax of Rs.45,67,264/-. Accordingly, revenue recovery proceedings were initiated and a notice was issued on 30.07.2004. The notice was challenged by the assessee in W.P (MD)No.1964 of 2004. Another writ petition was filed in W.P(MD)No.4842 of 2004 by the assessee challenging the cancellation of the agreement entered into under the Deferral Scheme.

5. In both writ petitions, a conditional order of stay was granted. As against the conditional order, an appeal was filed by the assessee, but the same was merely disposed of enlarging the time to comply with the condition.

6. Since the assessee did not comply with the condition, the writ petition was dismissed on 09.07.2007 and the District Collector issued a notice in Form 7-A for the sale of the assets of the assessee.

7. Unfortunately, the auction was conducted on 19.03.2008 within seven days from the date of issue of public notice on 12.03.2008. In the auction so held, the review petitioner was declared as the highest bidder. He was issued with a letter of confirmation on 26.03.2008 and it seems that he was urged to remit the amount on the very same day. Form VIII Sale Certificate was issued on 21.04.2008 and the department last no time and handed over the possession on 23.04.2008.

8. The sale notice was challenged by the assessee in W.P(MD)No.4378 of 2008 on the short ground that between the date of issue of public notice for sale namely 12.03.2008 and the date of auction sale namely 19.03.2008, there was no time as stipulated under the Rules. Apart from the Company, the Directors of the Company also filed independent writ petitions challenging the sale.

9. By a common order passed on 17.09.2008, the writ petitions filed by the Company and two of its Directors, in W.P(MD)Nos.3847, 4378 and 5324 of 2008 were allowed by a learned Judge of this Court, holding that the procedure contemplated under the Revenue Recovery Act, has been observed more in breach than in compliance and that therefore the land owner's property was illegally sold.

10. As against the said order, the auction purchaser filed three writ appeals in W.A(MD)Nos. 600 to 602 of 2008. The Government also filed three writ appeals in W.A(MD)Nos.46 to 48 of 2009. Interestingly, the assessee itself filed two appeals with regard to a small portion of the order, but later withdrew the same. Thus, there were six writ appeals, three at the instance of the Government and another three at the instance of auction purchaser arising out of a common order passed by the learned Judge setting aside the sale notice.

11. In the meantime, the Tamil Nadu Sales Tax (Settlement of Arrears) Act, was passed by the State Legislature on 25.07.2010. The Act was intended to be a "Samadhan Scheme". The assessee filed an application for settlement of arrears and the same was accepted by the Department. The assessee paid the amounts as prescribed under Section 7 of the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2010. The competent authority issued a Certificate of Settlement on 16.03.2011.

12. Though the question of Settlement of Arrears under the "Samadhan Scheme" was actually between the assessee and the Government, the auction purchaser filed a petition for revocation of the Sales Certificate on the ground that behind his back, there cannot be a Settlement between the Government and the assessee. Instead of throwing out this petition at the threshold, the Joint Commissioner entertained the same for obvious reasons, and issued a show-cause notice on 27.12.2012 for revocation of the Certificate of Settlement. Challenging the show-cause notice for revocation of settlement issued by the Joint Commissioner at the behest of a third party, who was not an assessee under the Act, the assessee as well as the Directors filed a batch of eleven writ petitions in W.P(MD) Nos.754 to 764 of 2013. These eleven writ petitions were tagged along with six writ appeals arising out of the order of the learned Judge. In the writ petitions challenging the show-cause notice for revocation of settlement, the auction purchaser filed impleading applications. Therefore, the Honourable Division Bench withdrew the writ petitions from the file of the learned Judge and took them along with the writ appeals. By a common order passed on 04.07.2014, the Division Bench dismissed all the writ appeals filed by the auction purchaser and by the State. The writ petitions filed by the assessee were allowed and directions were issued to enable the Department to hand over the possession of the property to the assessee. The Department was directed to refund to the auction purchaser, the amount deposited by him after deducting the value of the machinery which was forcibly removed by them. The operative portion of the order of the Division Bench dated 04.07.2014 reads as follows:-

> "44. In the result, all the writ appeals of the auction purchaser and all the writ appeals of the State arising out of the auction sale are dismissed. The writ petitions filed by the assessee are allowed and the

impugned notices are set aside. The Company and the owner of the property are permitted to take actual physical possession. The Department as well as the Police shall render necessary assistance, to enable owners to take possession of the property, within a week of receipt of a copy of this order. The Department shall refund to the auction purchaser, the amount deposited by him, after deducting the value of the machinery, which he is stated to have taken away forcibly. No costs. Consequently, connected Miscellaneous petitions are closed."

13. As against the said order, the auction purchaser filed a batch of Special Leave Petitions in SLP Nos.16720 to 16730 and 28199 to 28204 of 2014. Interestingly, the auction purchaser also filed a writ petition under Article 32 of the Constitution of India in W.P(MD)No.897 of 2014 challenging the Constitutional validity of the Tamil Nadu Sales Tax (Settlement and Arrears) Act, 2010.

14. We do not know how the auction purchaser of the property which was brought to sale under the provisions of Revenue Recovery Act for recovery of arrears of Sales Tax, is entitled to challenge the "Samadhan Scheme". But, it appears that eventually the writ petition was withdrawn.

15. Insofar as the eleven SLPs arising out of eleven writ petitions are concerned, the Honourable Supreme Court dismissed the prayer for leave to file Special Leave Petitions. However, permission was granted to file appropriate review petitions, on the ground that the petitioner claimed to have not been heard in the matter. The six SLP petitions arising out of the order of the Division Bench in six writ appeals were also dismissed with liberty to file review petitions. It is useful to extract the order in entirety:

"**SLP (C) CC Nos.16720 - 16730/2014**

Prayer for permission to file special leave petitions is rejected.

However, we permit the petitioner, if he so desires, to file an appropriate review petition before the Division Bench of the Madras High Court for review of its order on the ground that the petitioner was not heard in the matter while passing the impugned order.

If and when the review petition is filed, we request the High Court to consider the review petition on its own merit.

We clarify that we have not expressed any opinion on the review petition that may be filed before the High Court.

W.P(C)No.897/2014:

Learned Counsel for the petitioner, on instructions, seeks permission of this Court to withdraw this writ petition with liberty to approach the High Court.

Permission sought for is granted.

Liberty is granted to the petitioner, if he so desires, to approach the High Court to seek appropriate relief.

The writ petition is disposed of as withdrawn.

SLP (C) CC Nos.28199 - 28204 /2014

Dismissed.

However, we permit the petitioner, if he so desires, to file an appropriate review petition before the Division Bench of the Madras High Court for review of its order on the ground that the petitioner was not heard in the matter while passing the impugned order.

If and when the review petition is filed, we request the High Court to consider the review petition on its own merit.

We clarify that we have not expressed any opinion on the review petition that may be filed before the High Court."

16. Taking advantage of the observations made by the Honourable Supreme Court in its order, the auction purchaser has come up with these review applications, after a delay. Without going into the question of just and sufficient cause, we condoned the delay, in view of the liberty granted to the auction purchaser to file review petitions.

17. At the outset, it should be pointed out that the review petitioner is guilty of misrepresentation to the Honourable Supreme Court that they were not heard. The common order passed in the batch of 11 Writ Petitions and 6 Writ Appeals would show very clearly that the auction purchaser was represented not only by N.Madhava Govindan, learned Counsel on record but also represented by Senior Counsel who argued the case in full before this Court. In fact, an application for impleadment in M.P(MD)No.2 of 2013 was also filed in the writ petitions. The application filed by the auction purchaser was also heard and the auction purchaser was represented therein by the learned Senior Counsel Mr.Vijay Narayan.

18. As a matter of fact, the contentions of Mr.Vijay Narayan, learned Senior Counsel who appeared for the auction purchaser who was the appellant in three writ appeals in W.A.(MD)Nos.600 to 602 of 2008 were recorded in paragraph '29' of the order of the Division Bench and all those contentions were dealt with in paragraphs 30 to 35 of the order. Therefore, the petitioner/auction purchaser is guilty of making misrepresentations before the Honourable Supreme Court as though they were not heard. In other words, the liberty obtained by the petitioner from the Honourable Supreme Court to file a review application was on misrepresentation of facts.

19. Having recorded the manner in which the review applicant mislead the Supreme Court and obtained liberty to file a review, let us now taken up for consideration the grounds on which the review is sought. The first ground on which the review sought is that the conduct of the assessee in failing to comply with conditional order of stay granted by this Court in first round of litigation was omitted to be taken note of by the Division Bench while allowing the writ petitions of the assessee and setting aside the Sale Certificate. But, we do not think that it is

an error apparent on the face of the record to entertain the review. The sale held on 19.03.2008 was challenged on the short ground that the public auction notice itself was issued on 12.03.2008 and that seven days notice was not sufficient as per the statutory prescription. Once something is prescribed by law to be done in a particular manner, it shall be done only in that manner and not otherwise. The conduct of the assessee, assuming that it was worse of all the defaulters, would not alter the statutory prescription under the Revenue Recovery Act and shorten the duration of the notice so as uphold such a fraudulent auction conducted by the Department.

20. The second ground on which review sought is that the review applicant is a *bona fide* purchaser for value. Since the petitioner has invited us to pronounce the verdict on his *bona fides,* we are compelled to take note of the conduct of the applicant. The applicant was able to take possession of the entire property within two days and even to remove one part of the machinery from the premises. Even after the disposal of the writ appeals and writ petitions by this Court, the review applicant managed to keep the department and the assessee at bay without handing over the possession. The Honourable Supreme Court dismissed all the SLPs with liberty on 03.11.2014. The review application along with the condone delay petitions and grant leave petition were filed in February 2015. For the past 11 months, the auction purchaser has managed to ensure that the Department does not hand over the possession of the property to the owners. Therefore, it is a preponderous on the part of the review applicant to claim himself to be a *bona fide* purchaser for value. In any case, this is also not a ground for review.

21. The third ground on which review is sought, is that the Department could not have been entertained the applications under the "Samadhan Scheme" after the arrears of tax had been recovered through auction sale. We are completely at a loss to understand how the auction purchaser can talk about the eligibility or ineligibility of the assessee to the benefit of a "Samadhan Scheme" floated under the statute. In any case the argument that there were no arrears of tax, is completely bereft of logic. The moment the sale made under the Revenue Recovery Act, was set aside by the learned Judge, the money that the auction purchaser deposited with the Department, did not belong to the Department. Once the sale is gone, the position that prevailed before the auction sale, gets revived. The stay granted in the writ appeal has no consequence because the stay was only in respect of handing over the possession of the property to the original owner. Therefore, the contention that there were no arrears of tax as on that date, cannot be raised especially by the auction purchaser, who has shockingly managed to instigate the Department to issue notice of revocation of the Certificate of Settlement issued by the Joint Commissioner.

22. One last contention raised by the review applicant is that their money of more than Rs.80,00,000/- has been lying with the Department for the past seven years. Therefore, at least, interest ought to have been granted.

23. The operative portion of the order passed by us on 14.07.2014 has already been extracted. We have directed the refund of the money, by our order dated 04.07.2014. The non grant of interest on the said amount

cannot be a matter for review.

24. Once it is found that there appears to be some collusion between the Department and the auction purchaser, the auction purchaser does not deserve any sympathy from this Court so as to invoke the provisions under Order 47, Rule 1 of C.P.C, to review the order and grant interest on the amount paid. Hence, all these review applications are dismissed. No costs.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To
1.The District Collector,
Dindigul District,
Dindigul.
2. The Joint Commissioner
Commercial Tax (FAC), Madurai.
3.The Tahsildar,
Nilakottai Taluk,
Dindigul District.
4.The Revenue Inspector,
Nilakottai,
Dindigul District.

5.The Village Administrative Officer,
Kullalagundu Village,
Nilakottai Taluk,
Dindigul District.
6.The Deputy Commissioned (Commercial Taxes)
Madurai.
7.The Assistant Commissioner (CT)
Madurai East,
Madurai.
8.The Deputy Commercial Tax Officer,
Nilakottai, Dindigul District.

Review Application (MD)Nos.56 to 66 of 2015 in
W.P(MD)Nos.754, 756, 761, 762, 765, 764, 755, 757, 758, 761 and 759 of 2013

& Review Application (MD)Nos.162 to 167 of 2015 in W.A(MD) Nos.46 and 47 of 2009, 601, 602, 600 of 2008 & 48 of 2009
14.12.2015

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