BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.7.2015

CORAM:
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD).No.12698 of 2015
and M.P(MD).No.1 of 2015

M/s.Raja Enterprises
No.130, W.B.Road, Tiruchirapalli 620 008,
rep. by its Partner ...Petitioner

Vs

1.The Deputy Commissioner of
Commercial Taxes (AA), Tiruchirapalli 620 002.

2.The Assistant Commissioner(Commercial Tax)
Commercial Tax Department, Mailam Chantahi I Circle,
Tiruchirapalli-620 020. ...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the 2nd respondent herein from, in any manner, demanding or collecting the sum of Rs.42,71,587/- pursuant to the Notice in Form 'O' dated 10.6.2015 under TIN No.33763580380/2011-12 issued pursuant to the Revision Order in TIN No.33763580380/2011-12 dated 10.6.2015, pending disposal of the Appeal dated 9.7.2015 filed by the petitioner before the 1st Respondent herein.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.AL.Ganthimathi

For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

This Writ Petition has been filed praying for a Writ of Mandamus forbearing the second respondent herein from, in any manner, demanding or collecting the sum of Rs.42,71,587/- pursuant to the Notice in Form 'O' dated 10.6.2015 under TIN No.33763580380/2011-12 issued pursuant to the Revision Order in TIN No.33763580380/2011-12 dated 10.6.2015, pending disposal of the Appeal dated 9.7.2015 filed by the petitioner before the 1st Respondent herein.

2. The main ground on which this Writ Petition is preferred by the petitioner is that when the statutory appeal along with stay petition is pending before the first respondent, which was filed well in time, the second respondent kept on insisting the petitioner to pay the balance amount, as per the order of revised

assessment dated 10.06.2015, without waiting for the orders of the appellate authority, namely, the first respondent herein. Hence, the petitioner seeks indulgence of this Court.

3. The Additional Government Pleader was also put on notice. He would submit that since the issue is of revenue in nature, necessary safe guards have to be made so as to protect the interests of the Government. Therefore, the impugned order shall be sustained in its entirety.

4. Admittedly, as against the assessment order, the petitioner filed an appeal along with stay application, which is kept pending on the file of the appellate authority, namely, the first respondent herein. In the meanwhile, the second respondent has informed the petitioner that if the balance is not paid, it would be recovered under the Revenue Recovery Act. When the stay application along with the appeal is pending before the appellate authority, it is not open for the assessing authority to recover the balance amount, as per the order dated 10.06.2015. Therefore, in order to give quietus to this matter, the first respondent is directed to take up the stay application filed by the petitioner and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order. Pending disposal of stay application, the second respondent is directed not to initiate or proceed with the recovery of the balance amount, as per the notice dated 10.07.2015.

With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

SD
ASST REGISTRAR - CO

TRUE COPY

SUB ASST REGISTRAR

ssm

To

1.The Deputy Commissioner of Commercial Taxes (AA)
Tiruchirapalli 620 002.

2.The Assistant Commissioner(Commercial Tax)
Commercial Tax Department, Mailam Chantahi I Circle,
Tiruchirapalli-620 020.

1CC TO M/S. AL. GANTHIMATHI,ADV SR: 40570
1CC TO THE SPL GP SR: 41109

DM 28 7 15 - 2P 5C

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and M.P(MD).No.1 of 2015
23.07.2015