IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12333 of 2016 and

W.M.P.No.10666 of 2016

M.Sasikala .. Petitioner

Vs.

1.Assistant Commissioner (CT),
Kangayam Assessment Circle,
Tirupur Road, Kangayam,
Tirupur District.

2.The Commercial Tax Officer,
Kangayam Assessment Circle,
Tirupur Road, Kangayam,
Tirupur District. .. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the attachment notices in Form-I and Form-4 issued by 2nd respondent in CST 779308/2015-16 dated 18.12.2015 and quash these attachment proceedings issued under Revenue Recovery Act as illegal and direct the 2nd respondent to lift the above attachment notices issued under Revenue Recovery Act 1864 as absurd illegal and without jurisdiction as per the decision of the Madras High Court reported in 31 STC 607.

For Petitioner : Mr.C.Baktha Siromoni

For Respondents : Mrs. Vasudha Thiagarajan
Additional Government Pleader

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ORDER

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Mrs.Vasudha Thiagarajan, learned Additional Government Pleader appearing for the respondents and with their consent, the writ petition is taken up for final disposal.

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2.The petitioner is the wife of Thiru.P.V.Manickam, who is the Proprietor of Vadivelar Traders, who was a defaulter having failed to pay the sales tax arrears for the assessment year 2007-2008. Pursuant to an order of assessment under the provisions of the Central Sales Tax Act dated 21.05.2015. To secure the interest of revenue and to recover the arrears, the property in question has been attached, the petitioner would contend that she is the individual owner of the property and the question of attaching the property for the alleged arrears of sales tax payable by husband does not arise. Due to certain events which have taken place after this writ petition was filed, the merits of these contentions need not be gone into for the present as the petitioner's husband viz., the said Proprietary concern Vadivelar Traders filed WP.No.13197 of 2016 challenging the assessment order dated 21.05.2015 under the CST Act, the Court was satisfied that the order was passed in violation of principles of natural justice without affording an opportunity of personal hearing. Therefore, the assessment order itself has been set aside and the matter has been remanded to the Assessing Officer for fresh consideration. Thus, the basis of the impugned attachment order itself has been set aside and the matter remanded to the Assessing Officer for fresh consideration and for that reason, the order of attachment cannot be kept in force any longer.

3.Accordingly, the Writ Petition is allowed and the impugned order is set aside, making it clear that the petitioner shall not be entitled to alienate the property in question till the assessment has finalised by the 2nd respondent pursuant to the direction issued in WP.No.13197 of 2016. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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sgl
To
1.Assistant Commissioner (CT),
Kangayam Assessment Circle,
Tirupur Road, Kangayam,
Tirupur District.

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2.The Commercial Tax Officer,
Kangayam Assessment Circle,
Tirupur Road, Kangayam,
Tirupur District.

+1 cc to Mr.C.Baktha Siromani Vide sr 49439
+1 cc to Special Government pleader sr 49280

aa14/09/2016

HIGH COURT OF JUDICATURE MADRAS
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