IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.20097 of 2016
and
W.M.P.Nos.17316 & 17317 of 2016

M/s.J.S.Enterprises
Rep by its Proprietor - J.Senthil Kumar
No.19/120, Coral Merchant Street
Mannady, Chennai - 600 001. .. Petitioner

..Vs..

1.The Deputy Commercial Tax Officer
Muthialpet Assessment Circle
2nd Floor, Old No.199, New No.270,
Thambu Chetty Street
Chennai - 600 001.

2.The Branch Manager
IDBI Bank
Parry's Corner Branch
Chennai - 600 001. .. Respondents

Prayer:
Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records on the file of the 1st respondent in his impugned notice issued to the 2nd Respondent Bank in TIN:33381243762/2015-16/A3 Dt.24.02.2016 for the attachment of the Bank account of the petitioner and quash the same as illegal and against the provisions of the Act.

For Petitioner : Ms.R.Hemalatha

For Respondents: Mr.S.Kanmani Annamalai, A.G.P.,

ORDER

Heard Ms.R.Hemalatha, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.The petitioner who is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) has come up with the present writ petition challenging the order of attachment passed by the first respondent dated 24.02.2016, attaching the petitioner's bank account, on the alleged ground that there is arrears of tax payable by the petitioner.

3.The learned counsel appearing for the petitioner submitted that the first respondent had issued notices proposing to revise the assessment for the years 2013-14, 2014-15 and 2015-16 on 16.02.2016 and granted 15 days time for the petitioner to file their objections. However, even before the expiry of the said period, the impugned order of attachment has been passed.

4.The learned Additional Government Pleader, on instructions submitted that the procedure adopted by the respondent is incorrect, as he could have passed an order of attachment only after completing the assessment and if the petitioner defaults in the payment of tax and penalty, as determined in the assessment order. Therefore, it is submitted that the attachment may be lifted and the petitioner may be directed to submit their objections to the notices dated 16.02.2016, within a time frame, so as to the enable the first respondent to finalize the assessment.

5.Taking into consideration of the facts of the case and the submissions of the learned counsel, the writ petition is allowed and the impugned order is set aside and the attachment is lifted. The petitioner is directed to submit their objections to the notices dated 16.02.2016 within a period of 15 days from the date of receipt of a copy of this order, after which the first respondent shall afford an opportunity of personal hearing to the petitioner and thereafter, proceed to finalize the assessment in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commercial Tax Officer
Muthialpet Assessment Circle
2nd Floor, Old No.199, New No.270,
Thambu Chetty Street
Chennai - 600 001.

2.The Branch Manager
IDBI Bank
Parry's Corner Branch
Chennai - 600 001.

+1cc to the Special Government Pleader Sr.33320

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srg 28/06/2016