IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.1.2016

Coram

The Honourable Mr.Justice M.JAICHANDREN
and
The Honourable Mrs.Justice S.VIMALA

W.A.No.752 of 2013

S.Manikandamariappan
Proprietor Sree Krishna Carbide
rep by his power agent T.Subramanian ... Appellant

-vs-

Deputy Commercial Tax Officer
Ettayapuram
Tuticorin District ... Respondent

Writ Appeal has been filed under clause 15 of the Letters Patent against the order of the learned single Judge of this Court dated 24.8.2009 in W.P.No.11471 of 2003 which was filed under Article 226 of the constitution of India for the issuance of a writ of certiorari to call for the records relating to the auction notice issued by the respondent in his letter No.Na.Ka.A3/523/00 dated 24.12.2002 and quasht he same.

For appellant : Mr.M.MD.Ibrahim Ali

For respondent : Mr.Kanmani Annamalai

J U D G M E N T

(The Judgment of the Court was made by
M.JAICHANDREN,J.)

This writ appeal has been filed against the order passed by the learned single Judge of this Court, dated 24.8.2009, in W.P.No.11471 of 2003. The learned single Judge of this Court had passed the order, dated 24.8.2009, closing the writ petition recording the statement made by the learned counsel appearing for the petitioner that the entire arrears of tax, for the assessment years 1998-1999 and 1999-2000, had been paid. However, it had been observed that, if upon verification, the respondent had found that the entire amount due from the appellant had not been paid, it would be open to the respondent to proceed with the auction, afresh, after issuing a notice to the petitioner informing him about the balance amount due to be paid by him.

2. At this stage of the hearing of the writ appeal, the learned counsel appearing for the appellant had submitted that the entire tax amount and the penalty liable to be paid by the petitioner had already been paid, as per the order passed by the Madurai Bench of this Court, in W.P.(MD) No.787 of 2004, dated 27.8.2004. It had also been submitted that the respondent had not served the assessment order on the appellant, till date. It had been further submitted that if the assessment order is served on the appellant, he may be permitted to challenge the same.

3. The learned counsel appearing for the respondent had not been in a position to inform this Court as to whether the assessment order had been served on the appellant. In such circumstances, we find it appropriate to direct the respondent to serve the assessment order on the appellant, if it had not been served on him, till date. On such service, it would be open to the appellant to challenge the same before the appropriate authority or forum, in the manner known to law.

Accordingly, the writ appeal is disposed of with the above observations. No costs. Connected M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

Deputy Commercial Tax Officer
Ettayapuram
Tuticorin District

+1 cc to M/s.M.Md.Ibrahim Ali, Advocate, sr.3069

W.A.No.752 of 2013

sns co
kra 17.02.2016