

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23676 of 2016
& W.M.P.No.20271 of 2016

Saravana Construction, represented
By its Proprietrix Mrs.K.Thenammal,
11, Corporation Colony, 4th Street,
Tondiarpet, Chennai - 81. Petitioner

vs.

- 1.The Assistant Commissioner (CT,
Tondiarpet Assessment Circle,
19 & 20, Kummalamman Koil Street,
Chennai - 81.
- 2.The Commercial Tax Officer,
Tondiarpet Assessment Circle,
19 & 20 Kummalamman Koil Street,
Chennai - 81.
- 3.The Branch Manager,
Allahabad Bank,
Tondiarpet, Chennai - 81. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari, to call for the records of the 2nd respondent in TIN 33451202450/2007-2008 to 2014-2015 dated 21.06.2016 and quash the same.

For Petitioner : Mr.R.Kumar

For Respondents

R1 & R2 : Mr.S.Kanmani Annamalai

Additional Government Pleader (Taxes)

O R D E R

Heard Mr.R.Kumar, learned counsel appearing for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondents 1 and 2 and with their consent, the Writ Petition is taken up for final disposal.

2.The petitioner who is the registered dealer on the file of the Assistant Commissioner (CT), Tondiarpet Assessment Circle has filed this writ petition challenging the notice issued by the first respondent to the Branch Manager, Allahabad Bank, Tondiarpet, Chennai-81, namely, the third respondent, requesting to attach the petitioner's bank account on the ground that there was arrears of sales tax payable by the petitioner to the tune of Rs.1,85,28,958/- for the years 2007-2008 to 2014-2015 under the Central Sales Tax Act, 1956. The petitioner challenges the impugned proceedings on the ground that it is in violation of principles of natural justice and recovery proceedings have been initiated without proper service of notice in terms of Rule 19 of the Tamil Nadu Value Added Tax Rules, 2007.

3.On a perusal of the impugned order, it is seen that the first respondent has directly addressed the petitioner's banker and the order shows that a copy has been marked to the petitioner. The petitioner would further state that the Enforcement Wing has recorded a statement from the petitioner that an amount of Rs.30,85,870/- being the TDS amount was deducted and during the inspection by the Enforcement Wing, the petitioner has paid a sum of Rs.1,00,000/- as per the orders of the Enforcement Officers. In any event, these issues have to be canvassed by the petitioner before the first respondent and on that ground, the impugned order of attachment cannot be quashed. The purpose of issuing the order of attachment is to ensure that the dealer does not siphoned off his funds from the bank account with a view to defeat the interest of revenue. Therefore, no error can be attributed to the impugned order of attachment. However, since the petitioner states that they have got a good case on merits and they require an opportunity to place their objections, the petitioner is directed to treat the impugned proceedings as a notice and submit their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner and thereafter pass a reasoned order on merits in accordance with law. Till such orders are passed by the first respondent, the attachment of the bank account of the petitioner with the third respondent bank will continue. However, the first respondent

shall not withdraw the money from the petitioner's bank account.

4. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cse
To

1. The Assistant Commissioner (CT,
Tondiarpet Assessment Circle,
19 & 20, Kummalamman Koil Street,
Chennai - 81.

2. The Commercial Tax Officer,
Tondiarpet Assessment Circle,
19 & 20 Kummalamman Koil Street,
Chennai - 81.

3. The Branch Manager,
Allahabad Bank,
Tondiarpet, Chennai - 81.

+1 cc to Mr. R. Kumar Advocate sr.38568

+1 cc to Special Government Pleader sr.38730

सत्यमेव जयते

W.P.No.23676 of 2016 &
W.M.P.No.20271 of 2016

aa13/07/2016

WEB COPY