IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34156 of 2016
and W.M.P.Nos.29480 to 29482 of 2016

Tvl.Ganesh Associates Private Limited
Represented by its Managing Director
Mr.V.Ramasamy ... Petitioner

vs.

The Assistant Commissioner (CT)
Saidapet Assessment Circle
No.16/55, Dr.Govindan Road,
West Mambalam,
Chennai - 33 ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certitorari calling for the records of the respondent bank attachment notice dated 26.07.2016 in TIN/CST 33916221268/731764/2016/A3 and quash the same as illegal.

For Petitioner : Mr.M.Desingu
For Respondents: Mr.S.Kanmani Annamalai
Additional Government Pleader

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O R D E R

Heard Mr.M.Desingu, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government pleader accepts notice on behalf of the respondent. With the consent on either side, the Writ Petition is taken up for disposal.

2. The impugned proceedings is a notice of attachment of the petitioner's bank account for the alleged arrears of sales tax under the Central Sales Tax Act, 1956 for the year 2013-14 being a sum of Rs.22,56,062/- (Rupees twenty two lakhs fifty six thousand and sixty two only). The petitioner's case is that there is no notice was served on the petitioner, no assessment order has been passed and straight away, garnishee order has been passed, which is against law.

3. In order to verify the correctness of the same, learned Additional Government Pleader was directed to get copies of the files and to get necessary instructions from the

Assessing Officer. Accordingly, Tmt.M.Bhavani, Assistant Commissioner(CT), Saidapet Assessment Circle has forwarded the file vide her letter dated 29.09.2016. The learned Additional Government Pleader pointed out that in two places, the signature of the petitioner is available, namely in the notice dated 28.02.2015 as well as in the assessment order dated 23.09.2015.

4. The petitioner's case is that the signature contained in these two documents are not the signature of the Managing Director of the Petitioner Mr.V.Ramasamy and whenever the Managing Director receives any document on behalf of the Company, they will affix the seal of the Company and he doubts the very bonafides of the statement made by the Department that notice was served on the petitioner.

5. Infact, the assessee also attributed certain other motices to certain other persons in the Department, which need not be gone into at this juncture. In the light of the following facts, the assessment order for the year 2013-2014 dated 23.09.2015 is said to have been passed under the Central Sales Tax Act and the reason for making the assessment is on the ground that the petitioner has not produced 'C' forms.

6. The petitioner's case is that if notice had been issued, they would have produced all the records and it is for one assessment year, without following the procedure, straightaway bank account has been attached.

7. Considering the nature of allegation based on which, assessment has been completed and as it pertains only to production of 'C' forms, this Court is inclined to grant one more opportunity to the petitioner to produce all the documents. Accordingly, there will be a direction to the petitioner to appear before the respondent within a period of one week from the date of receipt of a copy of this order and produce all original 'C' forms and on production of the same, the respondent shall verify and if found to be in order, revise the assessment in accordance with law. If there are any other issues, the same should also be put to the petitioner and they should be able to file their objections as well. In the light of the above direction, the impugned attachment stands lifted and the petitioner is directed to cooperate in the proceedings.

8. The Assessing Officer shall take note of the decision of the decision of the Hon'ble Full Bench of this Court in ARUL MURUGAN AND COMPANY[51 STC 381) and the decision of the Hon'ble Supreme Court, in the case VIPRO FOUNDRY ENGINEERS LIMITED [81 STC 169]. Further, the Commissioner of Commercial Taxes issued Circular dated 30.04.1993, as to how the Assessing Officer has to act when Declarations in Form-'E' and Form-'F' are produced after the assessment is completed. After referring to the

relevant Rules, the Commissioner directed that the Assessing Officers can allow Form-C, Form E-I, E-II and F-Forms, to be filed after completion of assessment on sufficient cause. This was reiterated in another Circular dated 01.02.2000, after having found that some of the Assessing Officers have taken a stand that they have do not have jurisdiction to accept those Forms, after the assessment is over.

9. The issue would be as to whether 'C' forms can be accepted after the assessment is completed. The petitioner's case is that assessment has not been completed. Assuming that the assessment was completed, there can be no defect on the part of the Assessing Officer to receive the 'C' forms, in the light of the decisions and the circulars issued by the Commissioner of Commercial Tax stated supra.

10. Accordingly, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Saidapet Assessment Circle
No.16/55, Dr.Govindan Road,
West Mambalam,
Chennai - 33

+1 cc to Mr.M.Desingu,advocate,sr.56033

+1 cc to Govt.Pleader,sr.56132.

vsn(co)
krd 30/9



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