IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.35188 to 35194 of 2016
and
W.M.P.Nos.30294 to 30307 of 2016

Southern Petrochemical Industries
Corporation Limited
(Represented by its Deputy Manager (Finance))
S.Saravanan,
No.88, SPIC House,
Mount Road, Guindy,
Chennai - 600 032. ...Petitioners in all WPs

vs.

1. The Assistant Commissioner (CT)(FAC)
Allandur Assessment Circle,
12, Vedagiri Street,
Alandur, Chennai - 600 016.

2. The Appellate Deputy Commissioner (CT),
Chennai (East) Division,
C.T.Building Annexe, Third Floor,
Greams Road, Chennai - 600 006.

3. Bank of India,
Guindy Branch,
Mount Road, Guindy,
Chennai - 600 032. ...Respondents in all WPs

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records on the file of the first respondent herein in Rc.2796/2015/A3 dated 27.09.2016, quashing the same, in so far as it relates to the assessment year TNVAT:2007-08, 2008-2009, 2009-2010, 2011-2012, 2012-2013, 2013-2014 and 2014-2015 while directing the first respondent to forebear from initiating recovery proceedings pursuant to Rc.2796/2015/A3 dated 27.09.2016, pending disposal of the stay petition filed by the petitioners before the second respondent herein on 06.05.2016.

For Petitioner in all W.Ps	:	Mr.N.Prasad
For Respondents in all W.Ps	:	Mr.K.Venkatesh Government Advocate

COMMON ORDER

Heard Mr.N.Prasad, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents who is assisted by Mrs.A.Jeyashanthi, Assistant Commissioner (CT), Alandur Assessment Circle. By consent, the writ petitions are taken up for final disposal.

2.In these writ petitions, the petitioner has challenged the recovery notice issued by the first respondent dated 27.09.2016, demanding payment of the arrears of tax under the provisions of the Tamil Nadu Value Added Tax Act (TNVAT Act), 2006 and the Central Sales Tax Act and the petitioner's bank account has been attached. So far as the assessments under the TNVAT Act are concerned, the petitioner has filed appeals before the second respondent and the appeals are pending and the petitioner has effected pre-deposit of 25% of the disputed tax. The petitioner has also filed stay petitions in those appeals and requested the second respondent to grant absolute stay of the recovery of the balance of the disputed tax.

3.The petitioner's grievance is that when the stay petitions are already pending before the Appellate Authority and the petitioner already having paid 25% of the disputed tax, coercive action should not have been initiated and the petitioner's bank account should not have been attached. From the records produced by the Assessing Officer who is present before this Court that the impugned attachment has been made on 27.09.2013 and the petitioner's counsel's letter to the first respondent dated 27.09.2016 intimating about the pendency of the stay petitions in SP.Nos.90, 91, 92 and 119 of 2016 is shown to have been received in the office of the first respondent on 30.09.2016.

4.Thus, considering the facts and circumstances of the case, this Court is inclined to direct the attachment of the petitioner's bank account/s to be lifted subject to certain conditions. Taking note of the fact that the appeals are pending as against the assessment orders for the years 2007-08 to 2014-2015 and the petitioner having been already paid 25% of the disputed tax, this Court is of the view that if the petitioner pays further 15% of the disputed tax for all the assessment years within a period of two weeks from the date of receipt of a copy of this order, the assessment orders under the TNVAT Act for the years 2007-08 to 2014-2015 which are the subject matters of appeals before the second respondent, shall remain stayed till the disposal of the appeals by the second respondent. On payment of 15% of disputed tax as ordered supra, the attachment of the bank account/s shall be lifted. But till the payment is effected, the attachment will continue, but the Assessing Officer shall not recover any money from the petitioner's bank accounts.

5.The Writ Petitions are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

kp/cse

To

1. The Assistant Commissioner (CT)(FAC)
Allandur Assessment Circle,
12, Vedagiri Street,
Alandur, Chennai - 600 016.

2. The Appellate Deputy Commissioner (CT),
Chennai (East) Division,
C.T.Building Annexe, Third Floor,
Greams Road, Chennai - 600 006.

1 CC to Mr. N.Inbarajan, Advocate, SR. 56965

1 CC to Spl. Government Pleader, SR. 57064

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GR (CO)
PSI 07/10/2016