

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33784 of 2004

&

W.P.M.P.No.40860 of 2004

M/s.Gemini Dyeing
No.43/1 Mangalam Road
Andipalayam
Tirupur - 641 604

.. Petitioner

Vs.

The Deputy Commercial Tax Officer
Central - II, Assessment Circle
Tirupur .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the respondent in Form No.4 dated 29.03.2004, quash the same and as a consequential relief direct the respondent to dispose of the applications dated 01.08.2003 and 16.10.2003 filed under Section 55 of the TNGST Act.

For Petitioner : Mr.Md.Ghafoorur Rahman

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

O R D E R

Heard Mr.Md.Ghafoorur Rahman, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents.

2. The petitioner was assessed to tax for the year 1998-99 and an order of assessment came to be passed on 12.01.2001. The petitioner filed an application under Section 55 of the Tamil Nadu General Sales Tax Act, 1959 calling for rectification of the said order. When the application was pending before the respondent, the respondent issued attachment notice and threatened to recover the arrears of tax and penalty by initiating coercive action.

3. The writ petition was admitted on 22.11.2004 and an

order of interim stay was granted. It is submitted by the learned counsel appearing for the petitioner that the petitioner's application filed under Section 55 of the Act is still pending.

4. In the light of the above, there will be a direction to the respondent to consider petitioner's application under Section 55 of the Act dated 01.08.2003 and 16.10.2003 and pass orders on merits and in accordance with law after affording an opportunity of personal hearing to the petitioner within a period of six weeks from the date of receipt of a copy of this order. Till then, no recovery shall be effected, since the petitioner have had the benefit of interim order from 2004 onwards and the respondent has not filed counter affidavit till date.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa

To

The Deputy Commercial Tax Officer
Central - II, Assessment Circle
Tirupur

1 cc to M/s.Md.Ghafoorur Rahman, Advocate, sr.36704

1 cc to The Special Government Pleader(T), sr.36697

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