

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34127 of 2004

&

W.P.M.P.No.41259 of 2004

M/s.Sabari Auto Agency
Rep. by its Proprietor
Mr.A.R.Nair
No.62A, Thayar Sahib Street
Anna Salai
Chennai - 2

... Petitioner

Vs.

1. The Commercial Tax Officer
Triplicane - I Assessment Circle
62, Cathedral Road
Chennai - 600 086

2. The Commercial Tax Officer
Harbour IV Asst Circle
Chennai

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the first respondent relating to the impugned distraint order and quash the impugned proceedings dated 09.11.2004 as the same has been issued without any authority of law.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.S. Manoharan Sundaram

Additional Government Pleader

ORDER

Heard Mr.P.Rajkumar learned counsel for the petitioner and Mr.S.Manoharan Subdaram, learned Additional Government Pleader appearing for the respondent.

2. The petitioner has filed this writ petition challenging the distraint notice dated 09.11.2004 on the ground that his concern has got nothing to do with Sabari Auto Agency, who is a defaulter. Though the said proprietary concern is run by his wife, it is a separate legal entity having separate Registration Number under the provisions of Tamil Nadu General Sales Tax Act and Central Sales Act.

3. The Court prime facie accepted the petitioner's stand, and admitted the writ petition and granted interim stay on 23.11.2004, which has been in force till date. No counter affidavit has been filed by the respondent.

In the result, the writ petition is allowed and the impugned distraint notice dated 09.11.2004 is quashed leaving it open to the respondent to proceed against the defaulter to recover the tax, if not already recovered. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Commercial Tax Officer
Triplicane - I Assessment Circle
62, Cathedral Road
Chennai - 600 086

2. The Commercial Tax Officer
Harbour IV Asst Circle
Chennai

+1cc to Mr.P. Rajkumar, Advocate, S.R.No.36567

+1cc to the Government Pleader, S.R.No.36683

PA(CO)

EU(20/07/2016)

सत्यमेव जयते

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