BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2016
CORAM :
THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.16119 of 2016
and
W.M.P(MD)No.11789 of 2016

Tvl.Goodwill Team Papers Limited,
Represented by its Director,
P.Rajendran, aged about 58 years.
S/o.Pandiarajan,
89/1-A, Team Garden,
Uthappanaickanur,
Usilampatti Taluk,
Madurai District-626 537. ... Petitioner

vs.

1) The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner of Commercial Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

2) The Assistant Commissioner(CT),
Thirumangalam Assessment Circle,
No.15/91, Sonalar Street,
Jawahar Nagar, Thirumangalam,
Madurai District-627 811. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the 2nd respondent in Na.Ka.B2/902/2014 dated 27.07.2016 and quash the same.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

The 2nd respondent/Assistant Commissioner(CT), Thirumangalam Assessment Circle, Madurai District, has issued the impugned proceedings dated 27.07.2016, calling upon the petitioner to pay a sum of Rs.59,82,269/-. Challenging the same, the petitioner has filed this writ petition, on the ground that the 2nd respondent has not followed the correct calculation including subsequent payments made by the petitioner.

2.It is the claim of the petitioner that when there was a total deferral loan amount of Rs.1,70,25,455/- availed by them, they have so far paid Rs.1,45,17,406/- which is constituting 85% of the total amount. When the petitioner is liable to pay only a sum of Rs.25,08,049/-, the impugned order cannot be passed arbitrarily to pay a sum of Rs.59,82,269/-.

3.Learned counsel for the petitioner would submit that despite financial crunch, overcoming all the difficulties and other situations, the petitioner is running the business with periodical payment. As per the original agreement, the repayment schedule commences from the month of July 2006 and would continue for next 9 years period namely, till July 2015. Although the petitioner started repayment of the loan availed and the amount yet to be paid is only Rs.25,08,049/-,without even giving any correct calculation, the 2nd respondent has wrongly quoting the amount of Rs.59,82,269/- has taken action under the Tamilnadu Revenue Recovery Act, for attaching the landed property belonging to the petitioner company. In order to avoid the coercive action, learned counsel for the petitioner submitted that the petitioner is prepared to pay the balance amount within 10 installments and to show the bona fide of the petitioner, he produced two Demand Drafts taken by the petitioner both dated 30.08.2016 for Rs.1,00,000/- and Rs.2,00,000/-respectively, drawn in favour of the 2nd respondent. He has also requested this Court to issue a direction to the respondents to consider the petitioner's representation by affording on opportunity of personal hearing so that the petitioner will able to produce the voucher regarding past payment that would satisfy both parties' claim.

4.Learned Additional Government Pleader appearing for the respondents submitted that let the amount taken by the petitioner by way of Demand Drafts be deposited with the respondent and the respondent will consider the representation of the petitioner after giving due notice.

5.In view of the above, the impugned order shall be kept in abeyance. The two Demand Drafts for Rs.3,00,000/- produced before this Court can be realised by the respondents department. In the meanwhile, the respondents are directed to re-consider the case of the petitioner on the basis of the representation of the pettioner by affording an opportunity of personal hearing and only after considering the case of the petitioner afresh, a fresh order shall be passed by the respondents.

6.With the above directions, the writ petition stands disposed of. No costs. As I mentioned above, the impugned order shall be kept in abeyance till an order is passed by the respondents. Needless to mention that if any final decision is taken by the respondent after mutual agreement, the petitioner shall clear all the dues within 10 equal installments as agreed to before this Court. WMP(MD)No.11789 of 2016 is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
1) The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

2) The Assistant Commissioner(CT),
Thirumangalam Assessment Circle,
No.15/91, Sonalar Street,
Jawahar Nagar, Thirumangalam,
Madurai District-627 811.

+1cc to Special Government Pleader SR.No.49131
+1cc to B.Rooban, Advocate SR.No.49188

W.P(MD)No.16119 of 2016

31.08.2016

nbi
SD/CK/09.09.2016/3P/5C