



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2016

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.18058 of 2016 and
W.M.P.(MD) Nos.13013 & 13014 of 2016

M/s.Aanandhanayahi Traders,
Represented by its Proprietrix N.Nalini,
38-A/1, White House Street,
Theni-625 531.

... Petitioner

-vs-

The Assistant Commissioner (CT),
Theni-II Assessment Circle,
Theni.

... Respondent

Prayer: Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in Form U dated 16.03.2016 in TIN No.33575183167/2013-14 and quash the same as illegal, arbitrary and against law and direct the respondent to issue a notice and then pass an assessment order by following procedure as contemplated under the Tamil Nadu Value Added Tax Act, 2006.

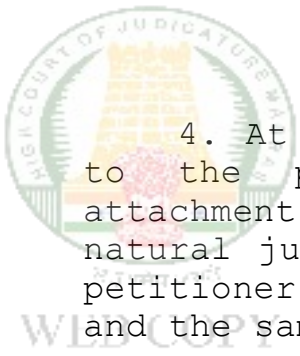
For Petitioner : Mr.N.Sudalai Muthu
For Respondent : Mr.R.Karthikeyan
Addl. Govt. Pleader

O R D E R

This petition has been filed, seeking to quash the impugned attachment notice of the respondent dated 16.03.2016 passed in Form U in TIN No.33575183167/2013-14, by which, the petitioner was directed to pay the money due as required under Section 45 of the TNVAT Act within fifteen days, failing which, the properties of the petitioner would be attached, as if it were an arrear of land revenue. The said notice is under impugned in this writ petition.

2. The grievance of the petitioner is that no opportunity of hearing has been granted to the petitioner before arriving at a decision and that the petitioner has already paid Rs.95,000/- out of total tax arrears of Rs.2,59,411/-.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.



4. At first blush, it is clear that no notice has been given to the petitioner before issuance of impugned notice of attachment, which is undoubtedly in violation of principles of natural justice, thereby infringing the fundamental rights of the petitioner. Therefore, the impugned notice has no legs to stand and the same has to be interfered with by this Court.

5. Accordingly, this Writ Petition is allowed and the impugned notice of attachment dated 16.03.2016 is set aside. The matter is remitted to the respondent to decide the issue afresh after affording an opportunity of hearing to the petitioner. It is open to the respondent to serve notice on the petitioner and on receipt of such notice, the petitioner shall submit reply within a period of two weeks thereafter and the respondent, after hearing the petitioner, shall pass a final order. It is made clear that in case the petitioner fails to appear on the date specified by the respondent, it is open to the authority concerned to pass orders based on the available documents before it. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To:

The Assistant Commissioner (CT),
Theni-II Assessment Circle,
Theni.

+1cc to Mr.S.Karunakar, Advocate SR.No.81484
+1cc to special Government Pleader SR.No.81604

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