BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) Nos.19829 to 19840 of 2016

WP(MD)No.19829 of 2016

M.SUBRAMANIAN ... PETITIONER in WP(MD) No.19829 of 2016

SRI JEGADISH AUTO FINANCE
REP. BY ITS PARTNER R.PRABHAKARAN
S/O.M.RATHINAM
D.NO.253-B IIND FLOOR
JAWAHAR BAJAR
KARUR 639 001 ... PETITIONER in WP(MD) No.19830 of 2016

MADURAI AUTO FINANCE
REP. BY ITS PARTNER R.PRABHAKARAN
S/O M.RATHINAM
D.NO. 253 -B IIND FLOOR
JAWAHAR BAJAR
KARUR - 639 001. ... PETITIONER in WP(MD) No.19831 of 2016

SRI SIVALAYA ENTERPRISES
REP. BY ITS PARTNER R.PRABHAKARAN
S/O. M.RATHINAM
D.NO.253-B IIND FLOOR
JAWAHAR BAJAR,
KARUR - 639 001 ... PETITIONER in WP(MD) No.19832 of 2016

D.S.SENTHILVEL ... PETITIONER in WP(MD) No.19833 of 2016

SRI SADASIVAM COMBINES
REP. BY ITS PARTNER R.PRABHAKARAN
S/O M.RATHINAM, D.NO. 253 -B IIND FLOOR
JAWAHAR BAJAR,
KARUR - 639 001. ... PETITIONER in WP(MD) No.19834 of 2016

A.VIJAYAN ... PETITIONER in WP(MD) No.19835 of 2016

K.PONNUSAMY ... PETITIONER in WP(MD) No.19836 of 2016

P.SENTHIL ... PETITIONER in WP(MD) No.19837 of 2016

SOODAMANI LEASINGS
REP. BY ITS MANAGING PARTNER
R.KATHIRESAN
S/O.RAMASAMY
N.R.M.P. STREET
T.A.M. COMPLEX,
COVAI ROAD,
KARUR. ... PETITIONER in WP(MD) No.19838 of 2016

SRI SIVALAYA ADVANCES
REP. BY ITS PARTNER R.PRABHAKARAN
S/O.M.RATHINAM
D.NO.253-B IIND FLOOR
JAWAHAR BAJAR,
KARUR 639 001 ... PETITIONER in WP(MD) No.19839 of 2016

T.R.DINAKARAN ... PETITIONER in WP(MD) No.19840 of 2016

-vs-

1.The Commissioner of Income Tax,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

2.The Income Tax Officer,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

3.The Recovery Officer - 2,
Income Tax Office,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002. ... Respondents in all WPs

Common Prayer in WP(MD)NOS.19829 To 19840 of 2016:-Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider the petition dated 29.07.2016 in accordance to Rule 11 of Second Schedule of the Income Tax Act within the time frame as stipulated by this Court.

For Petitioner : Mr.S.Jawahar in all WPs

For Respondents : Mr.R.Krishnamoorthy in all WPs

O R D E R

These Writ Petitions have been filed, seeking a direction to the respondents to consider the petitions dated 29.07.2016 in accordance with Rule 11 of Second Schedule of the Income Tax Act, 1961.

2.Heard the learned counsel appearing for the petitioners and the learned counsel, who takes notice for the respondents. By consent the writ petitions itself are taken up for final disposal at the admission stage.

3.It is the case of the petitioners that they have purchased their respective properties situated in Thanichiyam Village in various Survey Numbers through the registered sale deeds dated 16.06.2012, 19.06.2013, 19.07.2013, 13.02.2015, 19.07.2013, 02.11.2012, 01.07.2013 19.07.2013 and 02.11.2012. When the petitioners intended to sell their properties, they came to know that an order of attachment dated 21.12.2015 came to be passed by the Income Tax Department.

4.The grievance of the petitioners is that they have purchased their properties prior to the date of attachment. Therefore, the attachment order cannot have any retrospective effect.

5.The learned counsel appearing for the respondents would submit that the petitioners ought to have impleaded the vendor of the properties, so that it would have been easy for the Income Tax Department to find out the authentication of the sale deeds. Admittedly, the vendors have not been impleaded in these petitions. That cannot be an impediment for the officials of the Income Tax Department to conduct enquiry as it is always open to them to summon the vendors, if they have any doubt with regard to authenticity of sale deeds.

6.Under such circumstances, non impleadment of the vendors will not be impediment for this Court to dispose of these petitions. Therefore, the third respondent is directed to conduct enquiry in accordance with Rule 11 of the Second Schedule of the Income Tax Act within a period of three months from the date of receipt of a copy of this order. However, it is open to the third respondent to summon the vendors if need be.

7.The Writ Petitions are disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Income Tax,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

2.The Income Tax Officer,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

3.The Recovery Officer - 2,
Income Tax Office,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

+1 cc to M/s.S.Jawahar, Advocate in SR.No.61845
+3 cc's to M/s.R.Krishnamoorthy, Advocate in SR.No. 61338

MJ
CSL/SS-2/22.11.2016: 4P/8C

W.P(MD) Nos.19829 to 19840 of 2016
18.10.2016