BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.11.2016**

CORAM:

THE HONOURABLE DR.JUSTICE **S.VIMALA**

W.P(MD)No.20853 of 2016
and
W.M.P(MD)Nos.14894 and 14895 of 2016

Trust Kuduva Pillaiyar Karuppanasamy Kovil
rep. by its Trustee M.Manoharan : Petitioner

Vs.

The Commissioner,
Corporation of Madurai,
Madurai Corporation Wards Office,
Annamaligai, Madurai,
Madurai District. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned notice issued by the respondent in his proceedings dated Nil. in tax Assessment No.69874 and quash the same as illegal.

For Petitioner : Mr.M.Pandiyarajan
For Respondent : Mr.R.Murali

O R D E R

This writ petition has been filed for issuance of a Writ of Certiorari, seeking to quash the Tax Assessment No.69874, as illegal.

2. Heard the learned counsel appearing for the petitioner and the learned counsel who took notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

3. The case of the petitioner is that, he is an administrator of Pillaiyar Temple and Karuppanasami Temple and Peedam of Seelakari Amman Temple, which belongs to Karuppana Pillai, Son of Krishnapillai and other Pangalikal trust. The respondent issued impugned notice in Tax assessment No.69874, calling upon the Trust to pay a sum of Rs.2,26,998/-. When there is a dispute between the persons as to the persons liable to pay tax, it is claimed that the tax assessment and the demand notice are illegal.

4. The learned counsel for the petitioner would submit that there is a dispute between the female heirs and the male heirs and a suit is filed in O.S.No.724 of 2006, wherein it is contended that the Temple had been administered only by the male descendants and not by the female descendants and the same was not accepted by the Trial Court on the

ground that there was no documentary evidence to show that only male heirs are administering the Temple. Challenging the said finding, an appeal has been preferred in A.S.No.205 of 2008, wherein the Judgment passed by the Trial Court in O.S.No.724 of 2006 was set-aside and the declaration sought for in the suit has been granted. Challenging the same, a second appeal has been filed in S.A.No.415 of 2010 and the same is pending.

5. The learned counsel for the petitioner would also contend that the petitioner is not liable to pay the demand of Rs.2,26,998/-.

5.1. It is not in dispute that the Trusteeship is claimed by male heirs as well as the female heirs and it is pending adjudication in the Second Appeal. But, collection of tax is sine quo non for the administration.

5.2. Irrespective of the contentions raised in the civil suit, there is an undertaking on the side of the petitioner that the petitioner shall pay 50% of the tax demanded, which would be subject to the result of the decision in the second appeal.

5.3. There is also an undertaking on the side of the respondent that no coercive steps will be taken by the respondent for collection of tax and the same is recorded. It is also agreed by the learned counsel for the respondent that the balance of 50% tax will be collected from the successful party in the second appeal and the 50% of the payment agreed to be paid by the petitioner is subject to the result of the second appeal.

6. Accordingly, this writ petition is disposed of, permitting the petitioner to pay 50% of the tax demanded, within a period of two weeks from the date of receipt of a copy of the order, and the payment to be made is without prejudice to the contentions raised in the Civil Proceedings. Till payment is made, no coercive steps will be taken by the respondent for collection.

6.1. The balance tax shall be paid by the person, who is liable to pay, as per the decision in the second appeal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

The Commissioner,
Corporation of Madurai,Madurai Corporation Wards Office,
Annamaligai, Madurai,Madurai District.

+1 cc to M/S.R.Murali, Advocate in SR.No. 64863
+1 cc to M/S.M.Pandiarajan, Advocate in SR.No. 65336
smn
CSL/RR/SAR-II/07.03.2017 : 2P/4C

ORDER MADE IN
W.P(MD)No.20853 of 2016 and
W.M.P(MD)Nos.14894 and 14895 of 2016
01.11.2016