

\$~30

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6609/2016 & C.M.27094/2016**

M/S SINEXIMCO PTE. LTD. Petitioner

Through: **Mr.A.K.Singla, Sr.Adv. with
Mr.H.D.Sharma, Advocate**

versus

**THE COMMISSIONER, VALUE ADDED TAX(DEPTT. OF
TRADE & TAXES) & ANR.** Respondents

Through: **Mr.Satyakam, ASC, GNCTD with
Ms.Munish Kumari, AVATO,
DTT,Ward 32**

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **27.09.2016**

1. The petitioner is agitating the service of an attachment order upon the registry of this court in respect of a deposit made in the course of litigation. The petitioner is a decree holder for certain amounts which it is entitled to by virtue of a judgment dated 12.09.2012. In the course of execution proceedings the amount deposited was Rs.18,92,03,328/-. The respondent revenue i.e. DVAT authority claimed that an attachment order was served in respect of outstanding amount payable. The attachment order dated 19.04.2011 is sought to be challenged in the present petition.

2. Mr.Singla, learned senior counsel relies upon the report of the registry – sourced through the Right to Information Act to say that no valid attachment order was ever served upon the registry in respect of

the amounts deposited and consequently, the DVAT department's claim of attachment and the amounts due is unenforceable.

3. This court has considered the submissions. As to whether an order of attachment was validly served upon the registry and whether such order subsists is essentially a question of fact to be gone into in the execution proceedings. Furthermore, the petitioner is not an assessee – it is a creditor. Whether the amounts were payable and to what extent and as to whether the DVAT could legitimately claim to pass an attachment order is something the petitioner is precluded from challenging.

4. In these circumstances, the court is of the opinion that the facts do not justify exercise of jurisdiction under Article 226. It is open to the petitioner to raise these contentions in the course of execution proceedings.

5. The writ petition along with the pending application is dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 27, 2016

rb