IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2017

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THE HONOURABLE Mr. JUSTICE K. RAVICHANDRABAABU

W.P.Nos. 8559 to 8563 of 2017
and
W.M.P.Nos.9373 to 9387 of 2017

V.G.N.Developers Pvt. Ltd.,
Represented by its Director,
Thiru.Pratish Devadoss Vedhapodii,
No.15, Wallace Garden, 2nd Street,
Nungambakkam,
Chennai-600 006 ...Petitioner in all the W.Ps.

Versus

1. The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
Chennai.

2. The Joint Commissioner of Commercial Taxes,
Chennai Central Division,
Greams Road,
Chennai - 600 006. ..1st & 2nd respondents in all the W.Ps.

3. The Sub-Registrar,
Municipal Community Hall,
Gopalswamy street,
Ram Nagar,
Chennai - 600 053. ..3rd Respondent in W.P.No.8559/2017

4. The Sub Registrar,
Alandur,
No.12, 1st Main Road,
Nanganallur Co-op. Society Ltd.,
Nanganallur,
Chennai - 600 061 ..3rd Respondent in W.P.No.8560/2017

6. The Branch Manager,
   Axis Bank, R.K.Salai,
   Chennai - 600 004. ..3rd Respondent in W.P.No.8561/2017

7. The Sub-Registrar,
   Triplicane,
   182, Bharathi Salai,
   Pycrofts Road, Royapettah,
   Chennai j- 600 014. ..3rd Respondent in W.P.No.8562/2017

8. The Branch Manager,
   Corporation Bank,
   No.27, Whites Road,
   Chennai - 600 004. ..3rd Respondent in W.P.No.8563/2017

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari to call for records in TIN/33790461765/2016-17/A3 dated 24.03.2017, TIN/33790461765/2016-17/A3 dated 21.03.2017, TIN/33790461765/2011-2012 to 2013-2014 dated 07.03.2017, TIN/33790461765/2016-17/A3 dated 21.03.2017 and TIN/33790461765/2011-2012 to 2013-2014 dated 10.03.2017 respectively on the file of the 1st respondent and quash the same as contrary to law.

For Petitioner : Mr.A.Thiagarajan,
Senior Counsel for
Mr.P.R.Kumar

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader(Tax)
for R1 and R2
Mr.Akil Akbar Ali,
Government Advocate
for R3 (W.P.Nos.8559,8560 & 8562/2017)

COMMON ORDER

In all these writ petitions, the petitioner, who is one and the same, is aggrieved against the orders creating encumbrance and attaching the bank accounts in respect of the property belonging to the petitioner and their accounts maintained in the respective Bank. W.P.Nos.8559, 8560 and 8562 of 2017 are against the order creating encumbrance. Those impugned proceedings are addressed to the respective Sub-Registrar Office whereas W.P.Nos.8561 & 8563 of 2017 are against the order of attachment of Bank accounts belonging to the petitioner maintained in the respective Bank.

2. Heard the learned senior counsel appearing for the petitioner and the learned Additional Government Pleader and the learned Government Advocate appearing for the respondents.

3. The case of the petitioner is as follows:

It is a registered Company engaged in the development of properties and an assessee on the file of the 1st respondent. In respect of the assessment years 2011-12, 2012-2013 , 2013-2014, orders of assessment were issued on 27.01.2016. Challenging the said orders, the petitioner preferred revision petitions under Section 54 of the Tamil Nadu VAT Act, before the 2nd respondent and those revisions are still pending. While that being so, the 1st respondent issued the impugned orders, without even waiting for the outcome of the revision petitions pending before the 2nd respondent.

3. Learned senior counsel appearing for the petitioner submitted that the correctness or otherwise of the assessment orders passed by the Assessing Authority has to be considered and decided by the revisional authority, namely, the 2nd respondent and when such decision is yet to be made, the action of the 1st respondent in issuing the impugned proceedings, greatly affects the interest of the petitioner's day to-day activities and running of the business.

4. On the other hand, learned Additional Government Pleader, based on instructions, submitted that even though the petitioner filed the revisions against the orders of assessment, they are not cooperating with the disposal of the revisions and consequently, the matter was adjourned on several occasions only due to such non-cooperation. Therefore, he submitted that the 1st respondent cannot be found fault with in issuing the impugned proceedings. Learned Additional Government Pleader further stated that the next hearing date of the revisions is fixed on 24.04.2017.

5. Upon considering the facts and circumstances of the case and on hearing the learned counsel appearing on either side, it is evident that as against the orders of assessment passed in respect of of those three assessment years, the petitioner has already approached the revisional authority and filed the revisions, which are admittedly pending even as on today. But at the same time, as it is stated by the learned Additional Government Pleader that the

petitioner is not co-operating with the disposal of the revisions, the action initiated by the 1st respondent which are impugned in these writ petitions cannot be brushed aside as the one without having any bonafide. Certainly, the petitioner cannot drag on the proceedings without rendering their co-operation for the early disposal of the revisions.

6. Learned senior counsel appearing for the petitioner submitted that there is no intention on the part of the petitioner to drag on the proceedings and certainly, they will co-operate for the disposal of the revisions on the date of next hearing.

7. Considering the fact that the demand made against the petitioner is to the tune of Rs.6,82,49,825/- and that the orders of assessment were passed as early as on 27.01.2016 and further considering the fact that the revision petitions are pending before the 2nd respondent, this Court is of the view that the following order would protect the interest of both parties. Accordingly, the writ petitions are disposed of as follows:

(a) The petitioner shall pay a sum of Rs.1,00,00,000/- (Rupees One Crore only) before the 1st respondent on or before 17.04.2017.

(b) Another sum of Rs.1,00,00,000/- (Rupees One Crore only) shall be paid by the petitioner before the 1st respondent on or before 24.04.2017.

(c) The 2nd respondent shall take up the revisions on 24.04.2017 and dispose of the same on merits and in accordance with law after hearing the petitioner, within a period of two weeks thereafter.

(d) The petitioner shall not seek for further adjournment of the hearing of the revisions before the 2nd respondent.

(e) On making the payment of Rs.1,00,00,000/- on or before 17.04.2017, the encumbrances made in respect of the properties referred to before all the three Sub-Registrar Offices shall be lifted.

(f) On making further payment of Rs.1,00,00,000/- on or before 24.04.2017, the attachment made in respect of two Banks shall be lifted.

(g) If the petitioner does not comply with any one of the payments as stated supra, the impugned orders shall stand automatically restored without further reference to this Court.

No costs. Consequently, connected miscellaneous petitions are closed.

11.04.2017

Speaking /Non speaking Order
Index : Yes/No
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Note: Issue order copy on 12.04.2017

To

1. The Assistant Commissioner (CT),
   Nungambakkam Assessment Circle,
   Chennai.

2. The Joint Commissioner of Commercial Taxes,
Chennai Central Division,
Greams Road,
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K. RAVICHANDRABAABU.J

vsi

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