

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.8738 of 2017

and

W.M.P.No.9585 & 9586 of 2017

N.S.Azurudeen

Proprietor, M/s.Golden Steel Company

No.234, Nalladai Road,

Parasalur, Sembanarkovil - 609 309.

Myladuthurai Taluk

Nagapattinam District.

... Petitioner

Vs.

1. The Deputy Commissioner of Commercial Taxes,
Cuddalore,
Cuddalore District.
2. The Commercial Tax Officer,
Mayiladuthurai - II,
Mayildutharai Taluk,
Nagapattinam District.
3. The Commercial Tax Officer (Fac),
Mayiladutharai - II,
Mayiladutharai Taluk,
Nagapattinam District.
4. The Branch Manager,
Indian Overseas Bank,
Sembanarkovil Branch,

3/150, kalai Complex, Nehruji Salai,
Sembanarkovil - 609 306
Mayiladutharai Taluk,
Nagapattinam District

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records comprised in Rc.No.480/2014/A3 dated 13.3.2017 on the file of the 3rd respondent and the consequential communication dated 20.03.2017 on the file of the 4th respondent and quash the same.

For Petitioner : Mr.I.Joseph
for Mr.R.Karthikeyan
For Respondents : Mr.S.Kanmani Annamalai
Additional Government pleader.

ORDER

This writ petition is filed, challenging the proceedings of the third respondent dated 13.03.2017 and the consequential communication dated 20.03.2017 issued by the fourth respondent.

2. Heard the learned counsel appearing for the petitioner and the learned Additional government pleader appearing for the respondents.

3. The impugned attachment proceedings are issued in pursuant to the order of assessment passed by the Assessing Authority, in respect of

assessment year 2014-15. Aggrieved against such assessment order, the petitioner has already filed an appeal before the first respondent and it is stated that the said appeal is heard and reserved for orders. The grievance of the petitioner is that when the appeal is pending before the first respondent, the present impugned proceedings cannot be initiated. On the other hand, it is the contention of the third respondent that in the absence of any stay granted in the appeal, there is no impediment for the third respondent to take recovery proceedings.

4. Considering the fact that the petitioner has already filed the appeal before the first respondent, challenging the order of assessment and considering the fact that the said appeal has also been heard and reserved for orders, I am of the view that the petitioner has to wait for the decision to be made by the First Appellate Authority in his appeal.

5. Therefore, without expressing any view on the merits and the contention raised by either parties, I direct the first respondent to pass orders on the appeal filed by the petitioner on merits and in accordance

K.RAVICHANDRABAABU, J.
mk/sm

with law, within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.04.2017

Index : Yes/No

Speaking / Non-speaking order

mk/sm

Note: Issue order copy on 28.04.2017

To

1. The Deputy Commissioner of Commercial Taxes,
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2. The Commercial Tax Officer,
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3. The Commercial Tax Officer (Fac),
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