IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12895 of 2017
and
WMP.No.13760 and 13761 of 2017

M/s.Teak & Oak
rep. by its Partner
M.Karunakaran ... Petitioner

Vs

1. The Assistant Commissioner (CT),
   Velachery Assessment Circle,
   2nd Floor, Taluk Office Building
   28, Pasumpon Muthuramalingar Salai
   Greenways Road,
   Chennai – 600 028.

2. The Branch Manager,
   Dhanalakshmi Bank
   Velacherry Branch
   No.12, First Main Road,
   Baby Nagar, Velachery,
   Chennai – 600 042. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent in TIN.3370985796/2011-12 to 2015-16/A3 and quash the Form U notice dated 10.05.2017 issued therein to the second respondent herein.

For Petitioner : Mr.L.Muralikrishnan

For Respondents : Mr.S.Kanmani Annamalai

ORDER

By consent of the learned counsel on either side, the main writ petition itself is taken up for final disposal.

2.Challenging the Form U dated 10.05.2017 in TIN.33370985796/ 2011-12 to 2015-16, issued by the first respondent to the second respondent Bank, the petitioner has filed the present writ petition.

3.The case of the petitioner is that the petitioner is a trader in Furniture and is a registered dealer on the files of the first respondent under the provisions of the Tamil Nadu Value Added Taxes Act, 2006 (hereinafter shortly referred to as TNVAT Act, 2006) and the Central Sales Tax Act, 1956. While so, inspection was conducted by the Enforcement Wing Officers at the petitioner's places of business on 08.06.2016 and 09.06.2016 and certain defects have been pointed out by them, to which, the petitioner explained that all the records and documents were washed out by the floods in November and December 2015. Not satisfying the same, the Enforcement Wing Officers proposed to reverse the ITC claimed by the petitioner on the ground that the petitioner did not furnish copies of the First Information Report filed or details of insurance claim made. Based on the same, the first respondent herein passed assessment orders dated 28.12.2016, which were challenged by the petitioner by way of writ petitions in WP.Nos.2248 to 2252 of 2017 and the same are pending.

4.It is the further case of the petitioner that in the mean while, the petitioner obtained copies of the bank statements from its bankers and collected the proof for labour payment and labour receipts and filed rectification petition under Section 84 of the TNVAT Act, 2006 before the first respondent herein. However, the first respondent refused to receive the same, which compelled them to file WP.No.7470 of 2017 seeking a direction to the first respondent to accept the rectification petition and pass appropriate orders. This Court by order dated 10.05.2017, directed the first respondent to consider the rectification petition filed by the petitioner and pass orders within a period of eight weeks. When the things stood so, the first respondent has issued the Form U notice dated 10.05.2017 to the second respondent herein attaching the bank account of the petitioner, which was received by the second respondent on 12.05.2017. Aggrieved over the same, the petitioner is before this Court with the present petition.

5.Heard both sides and perused the records.

6.Admittedly, the assessment orders for the years from 2011-12 to 2015-16 in respect of the petitioner company, came to be passed on 28.12.2016, to which, the petitioner has filed rectification petition under Section 84 of the TNVAT Act and the same is pending. Without passing any order in the rectification petition as requested by the petitioner and despite the order of this Court dated 10.05.2017 in WP.No.7470 of 2017, the first respondent has issued Form U Notice to the second respondent, attaching the bank account of the petitioner. Such act of the first respondent, in my considered view, cannot be countenanced.

7.Therefore, this Court directs the first respondent to consider the rectification petition filed by the petitioner under Section 84 of the TNVAT Act, 2006 and pass appropriate orders on merits and in accordance with law, as ordered by this Court in WP.7470 of 2017 within a period of eight weeks. Till such time, the impugned proceedings of the first respondent dated 10.05.2017 addressed to the second respondent bank, related to attaching the bank account of the petitioner, shall be kept in abeyance.

8.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT),
   Velachery Assessment Circle,
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   Chennai - 600 028.

2. The Branch Manager,
   Dhanalakshmi Bank
   Velacherry Branch
   No.12, First Main Road,
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+1cc to Mr.L. Muralikrishnan, Sr.No.37593

W.P.No.12895 of 2017

RJ(CO)
CS/22/05/17