IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.17207 of 2017
and W.M.P.Nos.18705 & 18706 of 2017

A.Jahir Hussain .. Petitioner

..Vs..

The Commercial Tax Officer,
Panruti (Rural). .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in Form I-1 Section 8-Distraint order in A 3/128/2015 dated 07.03.2016 and the consequential Auction Notice in N.K.No.A 3/128/2015 dated 10.05.2017, quash the same being contrary to the statutory provision of Section 42(2) of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With the consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner is one Mr.A.Jahir Hussain and he has approached this Court challenging a distraint order passed under Section 8 of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and consequential auction notice dated 10.05.2017 issued by the respondent for recovery of the arrears of tax and penalty imposed on M/s.S.S. Enterprises, Panruti. The petitioner is a registered dealer on the file of the respondent carrying on business under the name and style of M/s.A.Jahir Impex and has been regularly filing returns before the respondent. By the impugned proceedings, the property of the petitioner's wife is sought to be brought for sale for the recovery of the tax and penalty payable by M/s.S.S. Enterprises. The property has been proceeded against because the said assessee has been declared as an assessee in default and the property in question was offered as security at the time of taking registration by the proprietor of M/s.S.S. Enterprises, Panruti.

3.The said dealer, namely, M/s.S.S. Enterprises had challenged the assessment orders for the years 2011-12, 2012-13 and 2013-14 by filing writ petitions in W.P.Nos.17053 to 17055 of 2017 and those writ petitions have been disposed of by individual orders dated 07.07.2017 and in respect of the assessment order for the years 2011-12 and 2013-14, the writ petitions have been disposed of by directing the said dealer to file an appeal before the Appellate Authority and giving interim protection from recovery. In respect of the assessment year 2012-13, the writ petition filed by the said dealer has been disposed and the order levying penalty has been set aside and remitted for fresh consideration before the Assessing Officer.

4.In such circumstances, as on date, the respondent cannot proceed against the petitioner's property for recovery of the tax and penalty due and payable by M/s.S.S. Enterprises in the light of the orders passed by this Court in W.P.Nos.17053 to 17055 of 2017. Accordingly, the writ petition is allowed and the impugned proceedings are quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Panruti (Rural).

+ 1 cc to M/s.Sundareswaran Advocate,SR.47912
+ 1 cc to The Govt.Pleader, SR.47892

W.P.No.17207 of 2017
and W.M.P.Nos.18705 & 18706 of 2017

SKS(CO)
NR 26/07/2017