IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.45082 of 2006 & M.P.No.1 of 2006

Mr.Badrinath, Proprietor,
M/s.BEE GEE FORGE,
No.82 & 84 Sidco Industrial Estate,
Thirumazhisai. ... Petitioner

Vs.

1.The Commercial Tax Officer,
Sri Perambudur Assessment Circle,
Varadharaja Puram-602 103.

2.The Branch Manager, M/s.Tamil Nadu Industrial Investment Corporation,
Special Recovery Branch, Division-II,
No.86, 2nd Main Road,
Ambattur Industrial Estate, Chennai-58. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Na.Ka.2645/04/A3 dated 27.09.2006 quash the same and consequently direct the first respondent not to create any encumbrance or charge on the property purchased by the petitioner from the 2nd respondent.

For Petitioner :Mr.S.N.Kirubanandam

For Respondents :Mr.S.Kanmani Annamalai for R1
Additional Government Pleader

: Mr.V.Kalyanaraman for
M/s.Aiyar & Dolia for R2

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O R D E R

Heard Mr.S.N.Kirubanandam, learned counsel for the petitioner, Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the first respondent and Mr.V.Kalyanaraman, learned counsel representing M/s.Aiyar & Dolia, for the second respondent.

https://hcservices.ecourts.gov.in/hcservices/

2.The petitioner has filed this writ petition challenging the demand prior to attachment of the property for recovery of the tax dues. The petitioner has challenged the impugned notice by contending that it is on the ground of total non-application of mind, as the first respondent has not taken note of the decision of this Court in the case of D.Senthilkumar and others vs The CTO reported in 148 STC 204, wherein it has been held that the rights of a bonafide purchaser has to be protected.

3.At the time when the writ petition was admitted, though the petitioner sought for an interim order, this Court did not grant any interim order, but observed in its order dated 22.11.2006, that the impugned demand is only a demand prior to attachment and therefore, there is no imminent danger to the petitioner about his possession and enjoyment of the property. It is not clear as what has happened during the pendency of this writ petition and more than 10 years have lapsed.

4.Therefore, at this juncture, the necessity to adjudicate the correctness of the impugned order would not arise as in any event, the respondent if intends to proceed further should issue fresh notice and cannot rely upon the impugned notice and the writ petition is disposed of, leaving it open to the respondent to proceed in accordance with law. If still a need arises and if chosses to do so, the respondent shall issue fresh notice to the petitioner and proceed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

1. The Commercial Tax Officer,
   Sri Perambudur Assessment Circle,
   Varadharaja Puram-602 103.

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2.The Branch Manager, M/s.Tamil Nadu
Industrial Investment Corporation,
Special Recovery Branch, Division-II,
No.86, 2nd Main Road,
Ambattur Industrial Estate, Chennai-58.

+1 Cc to Ms. Aiyar and Dolia, Advocate sr 72355.

W.P.No.45082 of 2006

RSI(CO)
SP(06/11/2017)

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