IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.41142 of 2016
and
W.M.P.No.35137 of 2016

M/s. Sri Kumaran Hardwares,
rep. by its Proprietor,
No.38, Medavakkam Main Road,
Chennai - 600 117. ...Petitioner

Vs.

The Assistant Commissioner (CT)
Madipakkam Assessment Circle,
Medavakkam,
Chennai - 600 100. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent, in his attachment proceedings in TIN No. 33330981356/2010-11, dated 24.10.2016, and to quash the notice as illegal and against the decisions of this Court.

For Petitioner : Mr.C.Bhakthasiromoni

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.C.Bhakthasiromoni, the learned counsel appearing for the petitioner, and Mr.K.Venkatesh, the learned Government Advocate for the respondent. With the consent of parties, the Writ Petition is taken up for final disposal.

2. The petitioner is aggrieved by the attachment notice issued by the respondent, dated 24.10.2016, calling upon them to pay tax, as computed in the order of assessment, dated 30.04.2015, for the year 2010-11, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'TNVAT Act').

3. It is not in dispute that the said order, dated 30.04.2015 was set aside by this Court, in W.P.No.21507 of 2014, by order, dated 18.08.2015, and the matter was remanded to the respondent/Assessing Officer for fresh consideration. In such circumstances, the question of demanding payment of the amount, quantified in the assessment order as tax or penalty cannot be sought to be recovered, as there existed no order of assessment in the eye of law. However, it appears that, without knowledge of the order passed by this Court, in W.P.No.21507 of 2014, dated 18.08.2015, the impugned attachment notice has been served.

4. In the light of the above, the Writ Petition is allowed, the impugned attachment notice, dated 24.10.2016 is set aside and the Assessing Officer is directed to comply with the direction issued by this Court, in W.P.No.21507 of 2014, dated 18.08.2015, after taking note of the factual and legal position, which holds the field as on date. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sd

To

The Assistant Commissioner (CT)
Madipakkam Assessment Circle,
Medavakkam,
Chennai - 600 100.

+1cc to the Special Government Pleader (Taxes) Sr. 46444
+1cc to Mr.C. Bakthasiromoni, Advocate Sr. 46396

Writ Petition No.41142 of 2016

VD(CO)
VR(26/07/2017)