THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.01.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

W.P.No.44357 of 2016
and WMP No.38237 of 2016

M/s.Shree Info System Solutions (P) Ltd.,
No.599, Gemini Parsn Building, II Floor,
B Block, No.3, Anna Salai,
Chennai-600 006
represented herein by its Managing Director,
Sri.Sesha Chowdry Yalamaddi ... Petitioner

Vs.

1. The State of Tamil Nadu
represented by the Secretary to the Government,
Department of Commercial Taxes,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Assistant Commissioner (CT),
T.Nagar, Assessment Circle,
No.46, Greenways Road,
Chennai-600 028. ... Respondents

* * *

Prayer : Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent in the impugned order in CST No.1004889/2013-14, dated 02.09.2016, and quash the same and further direct the second respondent to pass a fresh order accepting the declarations in Form F and Form-I, in the possession of the petitioner.

For Petitioner : Mr.R.Sridhar

For Respondents: Mr.K.Venkatesh,
Government Advocate

O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf of the respondents.

1.1. With the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal.

2. The writ petition is directed against the order dated 02.09.2016. By virtue of the said order, the petitioner has been directed to pay tax in the sum of Rs.3,44,796/-, after requisite adjustment is made towards tax already paid.

2.1. Today, the petitioner has filed an additional typed set of documents. A copy of the same has been served on Mr.K.Venkatesh. The additional typed set of documents reveals that the order dated 19.12.2016 has been passed by the second respondent, whereby, the petitioner's bank account maintained with Karur Vysya Bank Limited, having its branch at No.108/1, G.N. Chetty Road, T.Nagar, Chennai, has been attached to the extent of Rs.3,50,083/-

2.2. A perusal of the impugned order would show that tax has been levied, on account of the fact that there was a deficit in the Declaration Forms C, F and I.

2.3. Counsel for the petitioner has drawn my attention to the documents appended at pages 7 and 8 and a perusal of the same would show that the petitioner has filed Forms I and F of a value of Rs.30,37,047/-, and Rs.2,03,000/- respectively, after passing of the impugned order. Furthermore, a cheque was sought to be deposited in the sum of Rs.18,750/-, towards that part of the tax liability, which was not covered by the statutory declarations.

3. It is the case of the petitioner that Form F and I and the cheque for the aforementioned amount is accepted, then, the petitioner would not be liable to pay any further tax.

4. As a matter of fact, the petitioner did make a representation in this behalf to the second respondent vide communication dated 20.12.2016.

5. Counsel for the petitioner says that the second respondent, instead of revising the assessment, passed an attachment order, a day prior to the date of the representation, i.e., on 19.12.2016; a fact to which, I have made a reference above.

6. Having regard to the aforesaid, the impugned order is set aside. The petitioner will appear before the second respondent on 31.01.2017 at 11.00 a.m.

6.1. The petitioner, via its authorised representative, will present before the second respondent the original F and I Forms and, a Demand Draft, for the tax, if any, payable, by the petitioner.

6.2. The second respondent, after examining the original F and I Forms and upon ascertaining the exact amount of tax, if any, payable by the petitioner, will pass a fresh order in the matter.

6.3. The writ petition is disposed of in the aforementioned terms. Resultantly, the pending miscellaneous petition shall stand closed. No costs.

7. Needless to say that, since, the assessment order has been set aside, the attachment order cannot be enforced by the second respondent, as the same shall stand dissolved. The second respondent will, however, have liberty to issue a fresh order, if a need arises for the same, after re-doing the assessment, albeit, in accordance with law.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Department of Commercial Taxes,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.

2. The Assistant Commissioner (CT),
T.Nagar, Assessment Circle,
No.46, Greenways Road,
Chennai-600 028.

+1cc to Mr.R.Sridhar, Advocate Sr.1959
+1cc to the Special Government Pleader Sr.2110

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srg 10/01/2017