IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15315 of 2004

M/s.Cavin Kare Pvt. Ltd.
No.237, Peters Road
Chennai - 600 086. ... Petitioner

Vs

1.The Commercial Tax Officer
Cuddalore Town Assessment Circle
Cuddalore.

2.Mr.C.K.Kumaravel
No.10, East Main Road
Anna Nagar Western Extention
Chennai - 600 101. ... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for issuance a Writ of Certiorari, calling for the records of the first respondent in his proceedings in Na.Ka.A.3/9790/02, quash the auction sale notice dated 06.05.2004 issued therein.

For Petitioner : Mr.R.L.Ramani
Senior Counsel
For Mr.B.Ravendran

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

O R D E R

Mr.R.L.Ramani, learned Senior Counsel assisted by Mr.B.Ravendran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing on behalf of the respondents.

2.In this writ petition the petitioner challenges an auction sale notice issued by the first respondent preventing the petitioner property for sale for recovery of arrears of sales tax payable by M/s.Nature Care Products Private Limited.

3.The reason for proceedings against the petitioner's property is on account of the fact that the petitioner purchased the said property from the second respondent and was one of the directors of M/s.Nature Care Products (P) Limited.

4.The property which was sold by the second respondent to the petitioner which was situated in Pudupalayam Village, Cuddalore district, was an individual property owned by the second respondent and as such the property of the director cannot be proceeded against for the default committed by the company M/s.Nature Care Products Private Limited. But consequently the petitioner cannot be proceeded for having purchased such a property from the second respondent.

5.The learned Senior Counsel appearing for the petitioner would submit that the identical issue was considered by this Court in the case of W.P.No.39790 of 2005 dated 30.10.2017. This Court passed an order after taking into consideration in the earlier decision in the case of Chamundeeswari Vs.Commercial Tax Officer, Vellore reported in [2007] 6 VST 399 (Madras).

6.The learned Additional Government Pleader appearing on behalf of the respondents accepts the legal position laid down in the above decision and does not dispute the applicability of those decisions to the facts and circumstances of the case on hand.

7.For the above reasons, the writ petition is allowed and the impugned notice is quashed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer
Cuddalore Town Assessment Circle
Cuddalore.

+1cc to Special Government Pleader SR.No.87593

W.P.No.15315 of 2004

GN(04/01/2018)