IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.37624 of 2003 and
W.M.P.No.45687 of 2003

Mr.B.Kamalesh Gupta ... Petitioner

Vs.

The Commercial Tax Officer,
Purasawalkam Assessments Circle,
Chennai. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on files of the respondent in its proceedings in CST 652891 dated 21.05.2002, quash the same as ultra vires, invalid, violative of principles of natural justice and illegal and unconstitutional and direct the respondent not to demand from the petitioner personally any amount due from "The Company" by name and style "Shyam Flexi Pack Ltd."

For Petitioner : Mr.T.V.Lakshmanan
For Respondent : Mr.K.Venkatesh,
Government Advocate

O R D E R

Heard Mr.T.V.Lakshmanan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2. The petitioner was a former Director of the Company, which was initially incorporated as a Private Limited Company, vide Certificate of Incorporation dated 24.03.1994. Subsequently, the Company had became a Public Limited Company and necessary changes were made in the Registrar of Companies and a fresh Certificate of Incorporation was issued by the Registrar of Companies dated 03.07.1995.

3. The petitioner's case is that he resigned from the Company and he is nothing to do with the Company and the Company is still in existence and has not been wined up. The liability of a Director being limited, the respondent is not entitled to proceed against the Director, who is stated to have resigned from the Directorship for the arrears payable by the Company. Therefore, the respondent should proceed against the Company for recovery of dues.

4. It is not known as to whether the petitioner has complied with the interim order passed by this Court on 16.03.2004. In the event it has been complied with, the said amount has been kept in a separate account and the respondent shall proceed against the Company for recovery and after which appropriate orders can be passed with regard to refund of amount of Rs.1,00,000/- (Rupees one lakh only)

5. With the above observation, the writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

vsm

To

The Commercial Tax Officer,
Purasawalkam Assessments Circle,
Chennai.

+1 CC to Spl. Govt. Pleader sr 51253.

W.P.No.37624 of 2003

SP(11/08/2017)