IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

CORAM

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

W.P.No.3363 of 2018 &
W.M.P.No.4117 of 2018

M/s.Ponni Mobiles
Rep by S.Ashok Kumar
S/o.Sathanandhan
No.85, Kamarajar Street
Chennathiur, T. Pudhupalayam
Vikravandi Taluk
Villupuram- 605 652 ... Petitioner

v.

The Assistant Commissioner (CT)
First Floor, Integrated CT Buildings
Villupuram District Collectorate
Master Plan Complex
Villupuram ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the respondent in No.Na.Ka. A3/1645/ 2013 dated 14.12.2017 and quash the same.

For Petitioner : Mr.V.C.Selvasekaran

For Respondent : Mr.M.Hariharan
Addl. Government Pleader

ORDER

Heard Mr.V.C.Selvasekaran, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondent.

2. The petitioner has filed this writ petition challenging the proceedings initiated by the respondent under the Revenue Recovery Act for recovery of the tax and the penalty payable by the petitioner for the assessment year 2012-13.

3. The learned counsel appearing for the petitioner submits that before the issuance of the impugned auction notice, neither notice was issued by the respondent nor assessment order was passed but, straightaway the respondent has proceeded and issued the sale notice.

4. The court, on considering the submissions made by the learned counsel for the petitioner, granted an interim order holding that an auction can go on, but, the same shall not be confirmed. Subsequently, when the matter came up for hearing on 04.04.2018, the learned Government Advocate reported that sale took place but, there were no bidders. The respondent has given detailed para wise remarks to the learned Special Government Pleader vide letter dated 16.03.2018. On a perusal of the same, it is seen that the notice was issued to the petitioner on 28.06.2012 and the same was received by the petitioner, which was sent by Registered Post. However, the petitioner did not respond to the notice. Subsequently another notice dated 22.01.2013 was sent for providing another opportunity, which was also served by Registered Post. In spite of sufficient opportunities, the petitioner did not file his explanation/objection. Therefore, the respondent proceeded and passed an order on 18.03.2013. Since the arrears of tax and penalty as quantified in the order dated 18.03.2013 was not paid, the respondent initiated proceedings for revenue recovery. It is stated that the averment set out in the affidavit is false.

5. Considering the fact that the assessment order has been passed in the year 2013 and till date it has remained as paper order without any chance of recovering any tax, this court is of the view that one more opportunity may be granted to the petitioner to go before the Assessing Officer, but, such opportunity shall be subject to a condition.

6. Accordingly, the writ petition stands disposed of with a direction to the petitioner to pay 15% of the tax levied, viz., Rs.5,77,195/- within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned order as a show cause notice and submit their objections within a period of fifteen days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the

writ petition will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. Till this exercise is completed, the respondent shall not initiate any coercive steps against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

Rj

To

The Assistant Commissioner (CT)
First Floor, Integrated CT Buildings
Villupuram District Collectorate
Master Plan Complex
Villupuram

W.P.No.3363 of 2018 &
W.M.P.No.4117 of 2018

SSI(CO)

RRK(21/05/2018)