In the High Court of Judicature at Madras

Dated : 12.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.8645 & 8646 of 2018
and WMP.Nos.10576 & 10577 of 2018

Bhagyalakshmi Constructions,
Pondicherry-605006. ...Petitioner

Vs

1.The Commercial Tax Officer
(Main), Tindivanam.

2.The Branch Manager, IDBI Bank,
No.86, S.V.Patel Salai, Pondicherry U.T. ... Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the first respondent's notices respectively in (i) Rc.A3/2360/2014 dated 16.3.2018 and (ii) CST No.940847/13-14 Rc.A3/2360/2014 dated 22.2.2018 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent-1 : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the first respondent. Heard both. In view of the limited nature of the relief this Court intends to grant, the writ petitions are taken up for joint disposal without ordering notice to the second respondent.

2. The petitioner is aggrieved by the notices issued by the first respondent calling upon them to pay tax in respect of the assessment under the Central Sales Tax Act, 1956 for the year 2013-14, which is to the tune of Rs.7,86,604/-.

3. The learned counsel for the petitioner submits that no order of assessment was served on the petitioner and that the petitioner came to know about the outstanding only after they received the impugned demands.

4. The learned Government Advocate, in instructions from the officer concerned, has produced a copy of the assessment order

under the Central Enactment dated 17.10.2014 for the year 2013-14 and states that the assessment order was served on the petitioner and in spite of having received the same, the petitioner did not pay the tax. Further, the petitioner, by letter dated 02.2.2016, requested one month's time to produce the C Form Declarations.

5. The representative of the petitioner, who is present in court, would state that he has not received the order of assessment.

6. However, this Court is not inclined to believe the said stand, because the letter, given by the petitioner dated 02.2.2016, refers to the assessment order passed under the Central Enactment for the year 2013-14. Therefore, the plea raised by the petitioner that they have not received the assessment order for the year 2013-14 is rejected.

7. The petitioner has been assessed to tax on the ground that they have not produced the C Form Declarations. The petitioner would submit that they are ready and willing to produce the C Form Declarations within 60 days, since the person, who has to issue the C Form Declarations, is outside the State and is facing a demand by the Karnataka State Tax Authorities and that the matter is in the stage of being finalized.

8. Considering the said facts, the writ petitions are disposed of with a direction to the petitioner to pay a sum of Rs.2,00,000/- (Rupees two lakhs only) to the first respondent towards part of the liability under the Central Enactment for the assessment year 2013-14 and such payment shall be made within a period of three weeks from the date of receipt of a copy of this order. If the petitioner effects payment, then they are entitled to the time limit of 60 days from the date of receipt of a copy of this order to produce the C Form Declarations, failing which, the first respondent shall proceed to recover the entire dues by enforcing the bank attachment notice. Subject to the compliance of the said conditional order, the bank attachment notice shall be kept in abeyance. No costs. Consequently, the connected WMPs are closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

RS

To
1.The Commercial Tax Officer (Main), Tindivanam.
2.The Branch Manager, IDBI Bank, No.86, S.V.Patel Salai, Puducherry U.T.

+1 CC to Mr. Adithya Reddy, Advocate sr 27186.
+1 CC to Spl. Govt. Pleader (T) sr 27898.

WP.Nos.8645 & 8646 of 2018 and
WMP.Nos.10576 & 10577 of 2018

KGK(CO)
SP(04/05/2018)