IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2018

C O R A M

THE HON'BLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.21152 of 2018
and
W.M.P.No.24830 of 2018

M/s.NEPC Textiles Ltd.,
Rep. by its Director,
S.F.No.256, Trichy Road,
Kannamapalayam Post,
Coimbatore 641 402. ...Petitioner

vs

1.The State Tax Officer,
Palladam-641 664.

2.The Sub Registrar,
Sulur 641 402.

3.The Joint Commissioner of Commercial Taxes,
Coimbatore 641 018.

4.The Additional Commissioner of Commercial Taxes,
Ezhilagam, Chennai-05. ...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the records of the first respondent in Na.Ka.No.3215/2003/A3 dated 31.07.2018 and quash the same.

For petitioner : Mr.Adithya Reddy
For Respondents : Mrs.G.Dhana Madhri for R1, 3 & 4
Government Advocate
Mr.P.P.Purushothaman for R2
Government Advocate

O R D E R

The petitioner is aggrieved against the proceedings of the third respondent dated 31.07.2018, wherein and whereby, the property belonging to the petitioner is proposed to be sold in public auction on 24.08.2018, for recovering tax due to the tune of Rs.4,22,33,296/-.

2. When the matter was posted for admission on 20.08.2018, the learned counsel for the petitioner submitted that all sales tax dues have been discharged by the petitioner and however, a demand was made on 16.03.2016, demanding Rs.4,22,33,296/- as interest calculated on the belated repayment of the tax by the petitioner. It is further contended that though the petitioner objected to such demand, the first respondent by order dated 16.03.2016, confirmed the interest demand. Thus, it is contended that the petitioner filed a revision under Section 54 of the VAT Act along with stay application before the third respondent and though the said revision was dismissed, the petitioner preferred further revision before the fourth respondent on 27.11.2017 and the said revision is still pending. Therefore, the learned counsel contended that the present impugned proceedings in bringing the petitioner's property for public auction cannot be sustained.

3.In view of the above stated submissions made by the learned counsel for the petitioner, this Court directed the learned Government Advocate, who took notice on behalf of the respondents, to verify as to whether the second revision is pending before the fourth respondent as on today.

4.Accordingly, the matter is listed for further hearing today. Learned Government Advocate, based on instructions, submitted that the second revision filed by the petitioner is pending before the fourth respondent.

5.Though the petitioner has contended that they have discharged all their statutory dues to the respondents and that there are no arrears, this Court is not inclined to go into such contention and express any view, since a revision filed before the fourth respondent is admittedly, still pending. Therefore, it is for the fourth respondent to consider the objections raised by the petitioner and pass appropriate orders on merits and in accordance with law in the revision pending before him. In the meantime, as rightly contended by the petitioner, if the property is brought for a public auction and sold to some third party, certainly it would prejudice the interest of the petitioner. It is an admitted fact that the said property is already on attachment at the hands of the respondents and therefore, the interest of the respondents will not be prejudiced in any manner, if the auction is postponed. Therefore, without expressing any view on the merits of the contentions raised by the petitioner as well as the respondents, this writ petition is disposed of in following terms:

a) The fourth respondent shall take up the revision filed by the petitioner on 27.11.2017 and dispose of the same on merits and in accordance with law, after giving an opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

b) Till an order is passed by the fourth respondent, the impugned action of the first respondent in bringing the petitioner's property for public auction shall be kept in abeyance.

No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The State Tax Officer,
Palladam-641 664.

2.The Sub Registrar,
Sulur 641 402.

3.The Joint Commissioner of Commercial Taxes,
Coimbatore 641 018.

4.The Additional Commissioner of Commercial Taxes,
Ezhilagam, Chennai-05.

+1cc to Mr.Adithya Reddy, Advocate SR.No. 57189

+1 CC TO GOVERNMENT PLEADER SR.NO. 57903

+1 CC TO SPECIAL GOVERNMENT PLEADER SR.NO. 57323

W.P.No.21152 of 2018

ASK(07/09/2018)