IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

Writ Petition No.2767 of 2018 &
W.M.P.Nos.3413 & 3414 of 2018

Tvl. Harshitha Tiles Marbles & Granites,
Rep. by its Proprietor, Mr. R.Purushothaman,
213/3A Gingee Road, Tindivanam,
Villupuram District ... Petitioner

Vs

1. The Commercial Tax Officer (Main),
   Tindivanam Assessment Circle,
   Nehru Street, Tindivanam, Villupuram Dist.
2. The Sub Registrar, O/o. Sub Registrar,
   Salavathy Village, Avaraibakkam,
   Tindivanam Tk
3. The Branch Manager,
   Tamil Nadu Mercantile Bank Ltd.,
   No.28 Rajaji Street, Tindivanam 604 001 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the second respondent in Na.Ka.No.369/2016 and quash the same, being illegal, invalid, without jurisdiction and violated the principles of natural justice.

For Petitioner : Mr. D.Vijayakumar
For Respondents : Mrs. G.Dhanamadhri,
Govt. Advocate (Taxes), for R-1,
Mr. J.Pothiraj, Spl.G.P., for R-2.

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ORDER

The petitioner has filed the above writ petition seeking to issue a writ of certiorari to call for the records on the file of the second respondent in Na.Ka.No.369/2016 and to quash the same.

2. It is the case of the petitioner that the petitioner is a registered dealer, carrying on business of tiles and marbles. Based on the Web Inspection Report, the Assessing Officer initiated revisonal proceedings under Section 27 of the Tamil Nadu Value Added Tax Act, 2006, and passed orders on 06.01.2016, 30.06.2016 and 05.12.2016, respectively. The said orders were challenged before this Court in W.P.Nos.26102 to 26105 of 2017 and in W.P.No.26070 of 2017. This Court directed the parties to treat the order, as a notice, on condition of the petitioner depositing 15% of the disputed tax.

3. The petitioner complied with the said condition and filed its objections dated 01.12.2017 and requested to furnish copies of the records and also requested an opportunity to cross-examine third parties to prove its case. The petitioner was sanctioned with

business loan and housing loan by the third respondent / Bank. Since the petitioner defaulted in repaying the loans, the Bank declared the loan accounts, as Non Performing Assets, under SARFAESI Act. The petitioner requested the Bankers to grant some time to settle the amount. In the meantime, the first respondent passed orders for the various assessment years. Since the petitioner defaulted in paying the outstanding tax liability to the first respondent, the property was attached by the first respondent.

4. According to the petitioner, the total tax arrears is Rs.5,67,479/-. Though in the affidavit filed in support of the petition, the petitioner has stated that they are willing to furnish security for the said amount by attaching an immovable property measuring an extent of 15 cents, worth about Rs.20,00,000/-, instead of attaching the property to the first respondent, when the matter is taken up for hearing, the learned counsel appearing for the petitioner, on instructions, submitted that the petitioner had already paid a sum of Rs.1,29,102/- out of the total tax arrears of Rs.5,67,479/- and that for the balance sum of Rs.4,38,377/-, the petitioner is willing to furnish a bank guarantee, for which course of action, the learned Government Advocate (Taxes) appearing for the first respondent is agreeable.

5. Mr.J.Pothiraj, learned Special Government Pleader appearing for the second respondent submitted that upon furnishing the bank guarantee by the petitioner, in the name of the first respondent, the attachment would be raised.

6. Having regard to the submissions made by the learned counsel appearing for both sides and since the petitioner is willing to furnish a bank guarantee for a total sum of Rs.4,38,377/-, in the name of the first respondent, the attachment made in respect of the petitioner's property shall be raised. On furnishing the bank guarantee, the second respondent is directed to raise the order of attachment passed in favour of the petitioner's property. It is made clear that the petitioner shall furnish the bank guarantee within a period of one week from the date of receipt of a copy of this order.

7. With the above observations, this writ petition is disposed of. No costs. Consequently, the connected WMPs are closed.

26.02.2018

Index : Yes / No
Web : Yes / No

Speaking order / Non speaking order
srk
Note to office.: Issue order copy on or before 27.02.2018

To

1. The Commercial Tax Officer (Main),
   Tindivanam Assessment Circle,
   Nehru Street, Tindivanam, Villupuram Dist.
2. The Sub Registrar, O/o. Sub Registrar,
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3. The Branch Manager,
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M.DURAISWAMY, J.,

srk

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