IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.18635 of 2013
and
M.P. Nos.1 & 2 of 2013

Autotech Industries(India) Private Limited
No.SP-114,Ambattur Industrial Estate
Chennai-600 058
Represented by
its Company Secretary
Mr.S.Saravanan.

... Petitioner

Vs.

1. The Assistant Commissioner
   Ambathur Assessment Circle
   No.5,High Court Colony
   Chennai-600 049.

2. The Branch Manager
   State Bank of India
   (Commercial Branch)
   No.232,NSC Bose Road
   Chennai-600 108.

3. M/s.K.K.Polycolor India Ltd
   Represented by its Managing Director
   Dr.K.K.Kankani,
   K.K.Villa,No.32 Olymbic Colony
   Mugapair, Chennai-600 050.

4. M/s.Assets Care & Reconstructions Enterprise Ltd
   (Formerly Assets Care Enterprise Ltd)
   Registered Office.6th Floor, IFCL Tower,
   61, Nuhru Place,New Delhi-110 019.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the connected records of the impugned order dated 28.06.2013 made in RC 468/2009/A3 of the First Respondent and quash the same.

For Petitioner : Ms.D.Nishanshiyavelanganni

For Respondents Ms.G.Dhanamadhri
Government Advocate [Taxes]

O R D E R

Heard Ms.D.Nishanshiyavelanganni, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate [Taxes] appearing on behalf of the respondents.

2.The petitioner has filed this writ petition challenging the attachment notice issued by the first respondent for attaching the petitioner's property for the arrears of sales tax payable by the third respondent. The petitioner's case is that they have purchased the property in an auction conducted by the fourth respondent, who had brought the property for sale for the recovery of the dues payable by the third respondent to a Secured Creditor who has assigned the debt in favour of the fourth respondent.

3.The learned counsel for the petitioner would submit that the entire arrears of sale tax payable by the third respondent has been settled. The written instructions given by the first respondent to the learned Government Advocate vide letter dated 15.07.2013 does not state about the settlement of dues by the third respondent, but only mentions about the action initiated by the department by issuing 6 notices. Thus, the alleged settlement appears to have been made when the writ petition was pending.

4.Considering the fact that no interim order was granted in the writ petition and it was pending since 2013, no purpose would be served in keeping this writ petition pending. This court is inclined to dispose of the writ petition with appropriate direction.

5.In the result, the writ petition is disposed of by directing the petitioner to submit a representation to the first respondent to revoke the order of attachment on the petitioner's property for recovery of dues payable by the third respondent on the ground that the third respondent has already settled the entire dues to the Commercial Taxes department. As and when such representation is filed, the first respondent is directed to verify the same and after affording an opportunity of personal hearing to the petitioner, pass orders on merits and in accordance with law. Needless to state that if the dues have been settled by the third respondent, the attachment of the petitioner's property should be lifted within a period of 15 days from the date on which the representation is submitted.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Commissioner
   Ambathur Assessment Circle
   No.5,High Court Colony
   Chennai-600 049.

2. The Branch Manager
   State Bank of India
   (Commercial Branch)
   No.232,NSC Bose Road
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+1 CC to The Spl. Govt. Pleader (T) sr 5236.
+1 CC to Mr.S. Ravee Kumar, Advocate sr 4813.

W.P.No.18635 of 2013

VD(CO)
SP(15/02/2018)