BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.15489 and 15490 of 2018
and
W.M.P.(MD)No.13946 of 2018
in
W.P.(MD)No.15489 of 2018

M/s.Solamalai Automobiles (P) Limited,
Represented by its Managing Director,
P.Karmegam Rajamani,
No.28/5-B, Madurai-Melur Main Road,
Uthangudi, Madurai-625 107. ... Petitioner in both W.Ps.

-Vs-

The State Tax Officer,
Melur Assessment Circle,
Melur. ...Respondent in both W.Ps.

PRAYER in W.P.(MD)No.15489 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned demand notice issued by the respondent in Na.Ka.No.667/2012/A3, TIN No.33444941175, dated 25.05.2018 and the consequential impugned sale notice issued by the respondent in Form No.7 dated 15.06.2018, quash the same and direct the respondent to release the petitioner's property situated in S.No.28/5B of Uthankudi Village, Madurai North Taluk, Madurai District.

PRAYER in W.P.(MD)No.15490 of 2018: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent not to enforce the Form U notices sent to the petitioner's supplier and tenants, based on the petitioner's representation dated 03.07.2018.

For Petitioner : Mr.Lakshmi Sriram
(in both Writ Petitions)

For Respondent : Mr.Aayiram K.Selva Kumar,
Additional Government Pleader.
(in both Writ Petitions)

COMMON ORDER

The petitioner was an assessee registered with the respondent. He suffered orders of assessment. The case of the petitioner is that tax dues have been remitted in full. But, regarding the interest component, the matter is presently pending before the Additional Commissioner (Revision), Chennai in R.P.No.112 of 2015. According to the respondent, the petitioner is liable to pay a sum of Rs.6,86,29,324/- (Rupees Six Crores Eighty Six Lakhs Twenty Nine Thousand Three Hundred and Twenty Four Only). The petitioner has also filed a writ petition, questioning the assessment orders in respect of three years.

2.The grievance of the petitioner is that two landed properties belonging to the petitioner have been attached. Even by conservative estimate, they are worth more than Rs.15 Crores put together. The petitioner would submit that atleast one item could be released.

3.Therefore, the petitioner has filed these two writ petitions, one challenging the order of attachment and the other seeking release of atleast one item.

4.The liability of the petitioner is yet to be finally quantified. The dispute between the petitioner and the respondent is pending resolution before the Additional Commissioner (Revision), Chennai and is also the subject matter of the writ petitions before this Court. Therefore, at this stage, this Court is not in a position either to set aside the order of attachment or to direct release of even one item. No doubt, the petitioner has placed materials indicating their value. But, then, one can never be sure how much amount would be actually fetched in public auction. However, some relief can be afforded to the petitioner by directing early disposal of the revision petition filed by the petitioner before the Additional Commissioner (Revision), Chennai.

5.It is submitted that the post is currently vacant. But then, it is the duty of the Principal Commissioner for Commercial Tax, Chennai, to make appropriate arrangement as a special case. The Principal Commissioner for Commercial Taxes, Chennai is directed to make arrangements for disposal of R.P.No.112 of 2015 filed by the petitioner on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is given liberty to file a fresh petition on the very same cause of action, after the petitioner's liability is finally quantified in the aforesaid proceedings.

6.Since the interests of the department are sufficiently protected in view of the attachment effected in respect of two items of the petitioner's properties, the respondent is restrained from issuing any Form U notices to the tenants for the next six months.

7.Accordingly, these writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To
The State Tax Officer,
Melur Assessment Circle,
Melur.

+2CC TO Mr.Lakshmi Sriram, Advocate, Sr Nos.96648,96649

W.P.(MD)Nos.15489 and 15490 of 2018
22.11.2018

Myr
KK/SV/SAR-4/26.11.2018/3P.4C