



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2018

WEB COPY

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .Nos.838 & 839 of 2017

and

W.M.P. (MD) .Nos.692 to 695 of 2017

1.Pubjab National Bank
Asset Recovery Management Branch,
No.448A, Dr.Nanjappa Road,
Coimbatore-18,
Represented by its Chief Manager.

2.Andhra Bank,
Trichy Branch,
New No.143, Old No.73/B1,
Lakshmi Complex, Salai Road,
Trichy-620 018,
Represented by its Chief Manager.

...Petitioners in both
petitions

Vs.

1.The Joint Commissioner (Commercial Tax),
Trichy Division, Ground Floor, Commercial Taxes Buildings,
Court Campus, Contonment, Tiruchirappalli.

2.The Deputy Commissioner (Commercial Tax),
Trichy Division, IInd Floor,
Commercial Taxes Buildings,
Court Campus, Contonment, Tiruchirappalli.

3.The Assistant Commissioner (Commercial Tax),
Amaithakarai Assessment Circle,
Dowlath Towers, 7th Floor,
Taylors Road, Kilpauk, Chennai-10.

4.The Commercial Tax Officer,
Lalgudi Assessment Circle,
S.F.No.96/41, Bharathi Nagar,
Poovalur Road, Lalgudi,
Tiruchirappalli District.



5.The Sub Registrar,
Chettikulam Sub Registrar Office,
perambalur District.

6.M/s.Parameswara Mangalam Steels (P) Limited,
Registration Office: C-36, 2nd Avenue,
3rd Floor, Anna Nagar,
Chennai-600 040,
Through its Managing Director,
Mr.P.S.Krishnamoorthy

7.Mr.P.S.Krishnamoorthy,
S/o.P.S.Subramanian,
C-36, 2nd Avenue, 3rd Floor,
Anna Nagar,
Chennai-600 040.

... Respondents in both petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned letters Na.A.Nos.556-2015-A3, 557-2015-A3 dated 06.04.2015 of the fourth respondent as reflected in encumbrance certificates on the file of the fifth respondent for the alleged tax dues of the sixth respondent in derogation of the rights of the petitioners and to quash the same, being arbitrary, non-considerate, derogation of the statutory provisions and being against the principals of natural justice and fair play and direct the third and fourth respondents not to interfere with the right of the petitioners in enforcing the mortgaged assets.

In both Petitions

For Petitioner : Mrs.J.Maria Roseline
for M/s.VastLaw Associates

For Respondents : Mrs.S.Srimathy for R1 to R5
Special Government Pleader

COMMON ORDER

By consent, the main Writ Petitions themselves are taken up for final disposal.

2.Mrs.S.Srimathy, learned Additional Government Pleader, who takes notice for the respondents 1 to 5.

3.The learned counsel appearing for the petitioners/Banks would submit that the respondents 6 and 7 are only a formal parties and that no relief is claimed as against them and



therefore they may be given up.

4.The petitioners/Banks had advanced loans to the respondents 6 and 7. The said borrowers had tax dues. Therefore, encumbrances to that effect was created at the instance of the fourth respondent. Acting on the advice of the respondents 1 to 3, the encumbrances were entered in the Encumbrance Register by the fifth respondent.

5.The learned counsel appearing for the petitioner would submit that in view of the order of full Bench decision of this Court rendered in **W.P.(MD).No.2675 of 2011 etc batch dated 10.11.2016, (The Assistant Commissioner (CT) Vs. The Indian Overseas Bank, Chennai & M/s.Super Recording Company Limited)** the secured creditors will have a priority over the Government dues. The issue on hand is covered by the aforesaid decision.

6.In view of the said Full Bench order, this Writ Petition has to be necessarily allowed. The fifth respondent is directed to cancel the encumbrance created at the instance of the fourth respondent on the advice of the respondents 1 to 3.

7.The Writ Petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

tsg

To

- 1.The Joint Commissioner (Commercial Tax),
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Thiruchirapalli District.

5.The Sub Registrar,
Chettikulam Sub Registrar Office,
perambalur District.

+1 CC TO M/S.VAST LAW ASSOCIATES, Sr.No. 52771

+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No. 53303

JAM/29/05/2018/ SKN-RSK/SAR 2/ 4P-8C

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