

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 29.07.2019
CORAM
THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM
W.P.No.38117 of 2004

A.Chinnadurai

...Petitioner

Vs.

1. The Commercial Tax Officer,
Ariyalur, Perambalur District.
2. The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari calling for the records in the proceedings in Rc.No.4915/99/A3, dated 04.11.2004 on the file of the Commercial Sales Tax Officer, Ariyalur Perambalur District and quash the same as illegal, arbitrary.

For Petitioner : Mr.A.Thiagarajan, Senior Counsel,
for Mr.K.S.Sankara Murali

For Respondents : Mr.Haribabu,
Additional Government Pleader for R1
Mr.I.Sathish,
Additional Government Pleader for R2

ORDER

Heard Mr.A.Thiagarajan, learned Senior Counsel appearing for Mr.K.S.Sankara Murali, learned counsel for the petitioner, Mr.Haribabu, learned Additional Government Pleader appearing for first respondent and Mr.I.Sathish, learned Additional Government Pleader appearing for the second respondent and perused the materials available on record.

2. This Writ Petition has been filed questioning the notice issued by the first respondent for recovery of arrears of sales tax amounting to Rs.3,49,240/-.

3. According to the learned Senior Counsel appearing for the petitioner, the petitioner's father Velappa Gounder was the Director of the Private Limited Company, viz., Shri

Balamurugan Refineries Private Limited. Since the Company had become sick, the sales tax dues were not paid to the first respondent. The first respondent Department, apart from initiating proceedings against the Company, also sought to recover the sales tax dues from the personal property of the petitioner.

4. The learned Senior Counsel by producing an order / Judgment of this Court dated 07.07.2017 in W.P.No.36063 of 2003 would urge that the respondents have no authority to proceed against the personal property of the petitioner. The relevant portion of the above said order reads as follows:

"5. When admittedly the property in question is an individual property of the Director and the liability is being limited insofar as the Private Limited Company is concerned, the question of proceeding against his property would not arise. Therefore, this Court, prima-facie satisfied, and while admitting the writ petition granted an order of interim stay, with liberty to the respondents to proceed against M/s.Balamurugan Refineries Private Limited in respect of tax liability."

5. It is to be noted that the similar order was assailed by one of the Directors of the same Company in the Writ Petition referred supra.

6. In the light of the above facts, the order impugned in this Writ Petition is liable to be set aside and accordingly set aside. In fine, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commercial Tax Officer, Ariyalur, Perambalur District.
2. The Tahsildar, Veppanthattai Taluk, Perambalur District.

+1 cc to M/s.A.Thiyagarajan, Advocate Sr.No. 64654

+1 cc to The Government Pleader Sr.No.65014

AKM/18.09.19/2P-5C /

W.P.No.38117 of 2004