IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 11TH DAY OF MARCH 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A. Nos.6877 & 6878 of 2018
in
E.P.No.32 of 2012

Tamil Nadu Coop. Sugar Federation Ltd.,
Vth Floor, EVR Periyar Salai,
690, Anna Salai, Nandanam, Chennai 600 035.
:Applicant/Plaintiff/Decree Holder
(in both applications)

-Versus-

M/s. IMC Ltd.,
New No.39, Old No.19
Kasthuri Ranga Road,
Alwarpet, Chennai 600 018. :Respondent/Defendant/
Judgment Debtor
(in both applications)

A.No.6877 of 2018:

Application praying that this Hon'ble Court be pleased to allow set aside the order of the Master and the appeal and direct the Master to restore the Execution Petition and issue further process for the Balance amount due under the decree as claimed by the plaintiff/decree holder in its A.No.1276 of 2018.

A.No.6878 of 2018:

Application praying that this Hon'ble Court be pleased to allow set aside the order of the Master and the appeal and direct the Master to issue further process for the Balance amount due under the decree as claimed by the plaintiff/decree holder in E.P.No.32 of 2012.

These applications coming on this day before this court for hearing, the Court made the following order:-

The above Applications have been filed by the applicant/decree holder challenging the order of the learned Master made in A.No.1276 of 2018 in E.P.No.32 of 2012 dated 19.03.2018.

2. The applicant had obtained a money decree against the respondent, and, in execution of the money decree, certain amounts were paid.

3. The learned counsel appearing for the respondent contended that the payments made would amount to full satisfaction of the decree. The applicant/decree holder however disputed the calculation made and filed a revised claim statement stating that a further sum of Rs.37,50,732.50/- was due to be paid.

4. The learned Master by his order dated 19.03.2018, accepted the claim made by the respondent/judgment debtor herein and dismissed the Application No.1276 of 2018. As a consequence, the learned Master recorded full satisfaction in E.P.No.32 of 2012. Aggrieved by the said dismissal, the applicant/decree holder has come forward with the instant Applications seeking to set aside the order of dismissal made by the learned Master.

5. Pending these Applications, the parties have arrived at a settlement, in and by which, the applicant/decree holder has agreed to adjust a sum of Rs.12,44,424/- towards satisfaction of the decree and the balance amount of Rs.28,33,006.50/- has been paid by the respondent/judgment debtor to the applicant after detecting the TDS amount at 10%.

6. Mr.M.R.Narasimhan, learned counsel appearing for the applicant would contend that since the suit itself was one for damages, the respondent is not right in deducting income tax at source.

7. However, I am of the opinion that the provisions of Income Tax Act do not make a distinction with regard to the payments made. If payments are made pursuant to a decree, the judgment debtor is obliged to deduct tax. Therefore, while recording full satisfaction of the decree, pursuant to the settlement reached between the parties, it is observed that it is always open to the applicant/decree holder to raise a issue with the Income Tax Department and seek refund of the TDS deducted by the respondents.

8. These Applications are disposed of with the above observations. Full satisfaction of the decree is recorded.

Sd./-R.S.M.J
11/03/2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 03/06/2019

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.