IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2019

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH
W.P.No. 8769 of 2014
and
M.P.No.1 of 2014

M/s. Madras Tools & Tackles Limited,
(now known as Mtandt Limited)
Rep. By its authorized signatory
17/8, West Mada Church Street,
Royapuram, Chennai - 600 013. ..Petitioner

Vs.

1.The Assistant Commissioner (CT),
Royapuram Assessment Circle,
No. 116, Angappan Street, 2nd Floor,
Chennai - 600 001.

2.M/s. Standard Chartered Bank,
Rajaji Salai, Chennai - 600001. ..Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, to call for the impugned proceedings of the first respondent in TIN No.33841182011/CST No.96987 and quash the recovery notice dated 07.03.2014 issued therein and further direct the first respondent to life the order of attachment of the bank account of the petitioner.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.V.Haribabu,
Additional Government Pleader for R1
R2 - NA

O R D E R

The notice for recovery of arrears of tax dated 07.03.2014, for the arrears of sales under the Central Sales Tax Act for the Assessment Years 2007 - 08, 2008 - 09, 2009 - 10, 2010 - 11, 2011 - 12 is put under challenge in the present writ petition.

2. It is seen that in so far as the assessment orders for the years 2010 - 11, 2011 - 12 are concerned, the petitioner had filed the appeals before the Appellate Authority and by an order dated 13.04.1999, the Appellate Authority had set aside the assessment orders and had remanded back the matter to the Assessment Officer for these two years.

3. The contention raised by the writ petitioner before the Appellate Authority was that though they have filed C-forms, they could not file the objections in respect of the difference in turnover adopted by the Assessing Officer and also for the sales returns claimed by them in the monthly returns.

4. In so far as the assessment years 2007 - 08, 2008 - 09, 2009 - 10 are concerned, the petitioners had not preferred any appeal and therefore, the assessment orders have become final. Nevertheless, the learned counsel for the petitioner would submit that in respect of these three assessment years are concerned, they had already filed the C-form declarations within the prescribed limitations which has not been considered till date.

5. In normal circumstances, the consequential notice pursuant to the assessment orders will not be interfered with by invoking this Court’s power under Article 226 of the Constitution of India, unless and until, the assessment orders are challenged in the manner known to law. Nevertheless, by taking into consideration the submissions of the learned counsel for the petitioner that they had filed the C-form declarations within the time limit, it would be appropriate to extend an opportunity to the writ petitioner's to challenge the assessment orders for these three years 2007 - 08, 2008 - 09, 2009 - 10, before the concerned Appellate Authority, by stipulating a time limit of such filing. This opportunity, in my view could secure the ends of justice.

6. In the light of the above observations, the petitioner's granted opportunity to challenge the assessment orders for the assessment years 2007 - 08, 2008 - 09, 2009 - 10 before the concerned Appellate

Authority within a period of 30 days from the date of receipt of a copy of this order.

7. In view of the order of the Appellate Authority for the assessment years 2010-11 and 2011-12 are concerned, as well as the order of this Court giving an opportunity to the petitioner to file an appeal for the assessment years 2007-08, 2008-09, 2009-10, the respondent herein shall not take any coercive action for recovery of tax arrears for all the aforesaid assessment years, pursuant to the impugned notice dated 07.03.2014.

8. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Pns
To

1.The Assistant Commissioner (CT),
Royapuram Assessment Circle,
No. 116, Angappan Street, 2nd Floor,
Chennai - 600 001.

2.M/s. Standard Chartered Bank,
Rajaji Salai, Chennai - 600 001.

+1cc to Mr.R.P.Partners , Advocate SR.No. 70011
+1 cc to Spl Government Pleader(taxes) Sr.No. 69980

W.P.No. 8769 of 2014

A.SK(27/09/2019)