IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26802 of 2019
and
WMP.Nos.26195 & 26197 of 2019

M/s.MSR Polymer and Paper Cups
Represented by its Proprietor
R.Janaki ...Petitioner

vs.

1. The Commissioner (CT)
   Commercial Taxes Department
   Puducherry.
2. The Deputy Commercial Tax Officer, IAC
   Commercial Taxes Department
   Puducherry. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 2nd respondent herein in TIN.34730012817/73/2019 dated 22.07.2019 and quash the same.

For Petitioner : Mr.P.Suresh
For Respondents : Mr.J.Kumaran
Additional Government Pleader (P)

ORDER

This writ petition is filed challenging the proceedings of the second respondent dated 22.07.2019, which is nothing but a Garnishee notice issued under Section 39 of the Puducherry Value Added Tax Act, 2007.

2. Mr.J.Kumaran, learned Additional Government Pleader (P) takes notice for the respondents.

3. It is contended by the learned counsel for the petitioner that before issuing Garnishee notice to the concerned Bank, which is not made as a party in this writ petition, the petitioner was not put on notice. Therefore, the learned counsel contended that the impugned action violates the principles of natural justice.

4. On the other hand, it is contended by the learned Additional Government Pleader (P) for the respondents that an order of assessment was already passed against the petitioner/Assessee on 14.09.2018 and the said order has not been challenged by the petitioner/Assessee so far. Therefore, he submitted that the tax liability fastened on the petitioner based on the order of assessment is sought to be recovered by issuing the impugned Garnishee notice.

5. Upon hearing both sides, I am not inclined to entertain this writ petition on the ground raised by the petitioner as if they are entitled to prior notice before issuing Garnishee notice. It is not in dispute that the order of assessment dated 14.09.2018 was already passed and therefore, if the petitioner is aggrieved against the said order, they have to work out their remedy by challenging the said order before appropriate forum in the manner known to law. Without doing so, the petitioner has come forward to challenge the consequential Garnishee notice, which in my considered view, cannot be entertained as a proper course of action. Even otherwise, I do not think that the petitioner is entitled to prior notice before issuing Garnishee notice under Section 39 of the Puducherry Value Added Tax Act, 2007.

6. Accordingly, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner (CT)
Commercial Taxes Department, Puducherry.

2. The Deputy Commercial Tax Officer, IAC
Commercial Taxes Department, Puducherry.

+1cc to Mr.P.Suresh, Advocate Sr.No.77903
+1cc to The Government Pleader(Puducherry) Sr.No.78070

AKM/27.09.19/2P-5C /

W.P.No.26802 of 2019