IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.11.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.30167 of 2019
and
W.M.P.No.30124 & 30125 of 2019

M/s. Mangal Plywood Laminates
rep. by its PartnershipHarish Kumar Agarwal
No.15/4-A, Ponniammanmed,
Madhavaram, Chennai - 600 0110
Now at NO.4-A, Nathan Nagar,
Robestson Road, R.S.Puram,
Coimbatoe - 641 002. ...Petitioner

Vs.

1. The Assistant Commissioner (ST)
Madhavaram Assessment Circle,
No.170, G.N.T.Road, Puzhal,
Chennai - 600 066.

2. The Chief Manager,
Bank of Maharastra,
No.783, Oppanakara Street,
Coimbatore - 641 001
Now at 194/1, R.G.Street,
Coimbatore - 641 001. ..Respondents.

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in TNVAT/333910 86665/2011-12 with Form U Notice for recovery of money due dated 23.09.2019 and quash the same as illegal contrary to provisions of the Act and direct the first respondent to further certified copy of the re-assessment oder for A.Y.2011-12.

For Petitioner : Mr.T.Pramod Kumar Chopda
For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)
for R1
No appearance for R2

O R D E R

The petitioner is aggrieved against the communication of the first respondent dated 23.09.2019 addressed to the 2nd respondent attaching the Bank account maintained by the petitioner for the recovery of tax due, relevant to the assessment year 2011-12.

2. Heard Mr.T.Pramod Kumar Chopda, learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first respondent. Therefore is no representation for the second respondent.

3. The grievance of the petitioner before this Court against the impugned communication is that the same was issued without serving a copy of the assessment order made by the Assessing Officer relevant to the assessment year 2011-12. Therefore, it is contended that the petitioner was reasonably prevented from challenging the said assessment order before the competent forum.

4. The learned Additional Government Pleader, based on instructions, submitted that the said assessment order dated 10.05.2019 was sent by registered post and it was received on 20.05.2019.

5. Learned counsel for the petitioner submitted that the signature found in the acknowledgment does not show that it was received by the petitioner himself.

6. The challenge made in this Writ Petition is only a consequential proceedings, namely Bank attachment order for realisation of Tax due. Therefore, the petitioner is bound to challenge the original order of assessment before the concerned Appellate Forum, if at all, if they are aggrieved against the same. In this case, service of such order to the petitioner is disputed. However, this Court is not inclined to probe into the matter and find out as to whether the said order was in fact, served on the petitioner or not, as this Court is inclined to grant liberty to the petitioner to challenge such order before the Appellate Authority.

7. Going by the fact that the assessment order was passed on 10.05.2019, this Writ Petition is disposed of by issuing the following directions.

(a) The Assessing Officer shall furnish a certified copy of the assessment order dated 10.05.2019 to the petitioner within a period of three weeks from the date of receipt of a copy of this order.

(b) On receipt of the said certified copy, the petitioner shall file the statutory appeal before the concerned Appellate Authority within a period of three weeks thereafter, after complying with all the statutory requirements.

(c) On receipt of such appeal, the Appellate Authority shall consider the same on its own merits and pass orders in accordance with law without reference to the period of limitation.

(d) Since the petitioner is granted liberty to file such an Appeal, the impugned attachment shall be lifted for a period of eight weeks.

(e) It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner as it is for the Appellate Authority to consider and decide the same.

No costs. Consequently, connected miscellaneous petition are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Assistant Commissioner (ST)
   Madhavaram Assessment Circle,
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   No.783, Oppanakara Street,
   Coimbatore - 641 001
   Now at 194/1, R.G.Street,
   Coimbatore - 641 001.

+1 cc to Spl Government Pleader taxes Sr.No.97767
+1cc to Mr.T.Pramod Kumar , Advocate SR.No. 96532

W.P.No.30167 of 2019

A.SK(17/12/2019)