

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2020

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.NO.27647 OF 2012

AND

M.P.NO.1 OF 2012

M/s.P dot G Construction Pvt. Ltd.,
No.2/30, Railway Colony II Street,
Amaindakarai,
Chennai - 600 029.

... Petitioner

-vs-

The Assistant Commissioner (CT),
Vadapalani II Assessment Circle,
Chennai - 600 026.

... Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in his proceedings in TIN/33911025075/2009-10 and quash the revision notice dated 13.09.2012 issued therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.Mohammed Shaffiq
Special Government Pleader

सतयमेव जयते
O R D E R
(through video conference)

Heard Mr.P.V.Sudakar, Learned Counsel for the Petitioner and Mr.Mohammed Shaffiq, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice No. TIN: 33911025075/2009-10 dated 13.09.2012 issued by the Respondent, which is evidently a show cause notice for which the Petitioner has been required to submit its explanation. The consistent

legal position has been reiterated by the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulum Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha (AIR 2012 SC 2250) and Life Insurance Corporation of India -vs- A.Masilamani [(2013) 6 SCC 530] that a show cause notice cannot be challenged before completion of enquiry and the proceedings cannot be interdicted till it reaches its logical conclusion.

3. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for this Court to interfere at this pre-mature stage of the matter.

4. Learned Counsel for the Petitioner has filed a memo dated 10.11.2020, which reads as follows:-

" It is submitted on behalf of the Petitioner that pending the above Writ Petition before this Hon'ble Court, the Petitioner company was admitted to insolvency proceedings under Section 9 of the Insolvency & Bankruptcy Code, 2016 before the National Company Law Tribunal - 1, Chennai. By an order dated 13.12.2018 the NCLT has approved a resolution plan under Section 31 of the Insolvency & Bankruptcy Code under which one M/s. RCC E-Construct Pvt. Ltd. Delhi has assumed management of the Petitioner company."

5. In view of the subsequent events, M/s. RCC E - Construct Pvt. Ltd., Delhi, who has assumed management of the Company of the Petitioner, shall submit reply on behalf of the Petitioner to that Show Cause Notice, and the Respondent shall send a copy of the show cause notice to the M/s. RCC E - Construct Pvt. Ltd., Delhi by 31.12.2020 in that regard. The said M/s. RCC E - Construct Pvt. Ltd., Delhi shall submit reply on behalf of the Petitioner by 31.01.2021. The Respondent shall, after affording full opportunity of hearing to all parties concerned, duly consider the explanation made on behalf of the Petitioner, deal with the each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate decision taken under written acknowledgment. Though obvious, it is made clear that no opinion has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in the matter.

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vjt/dm

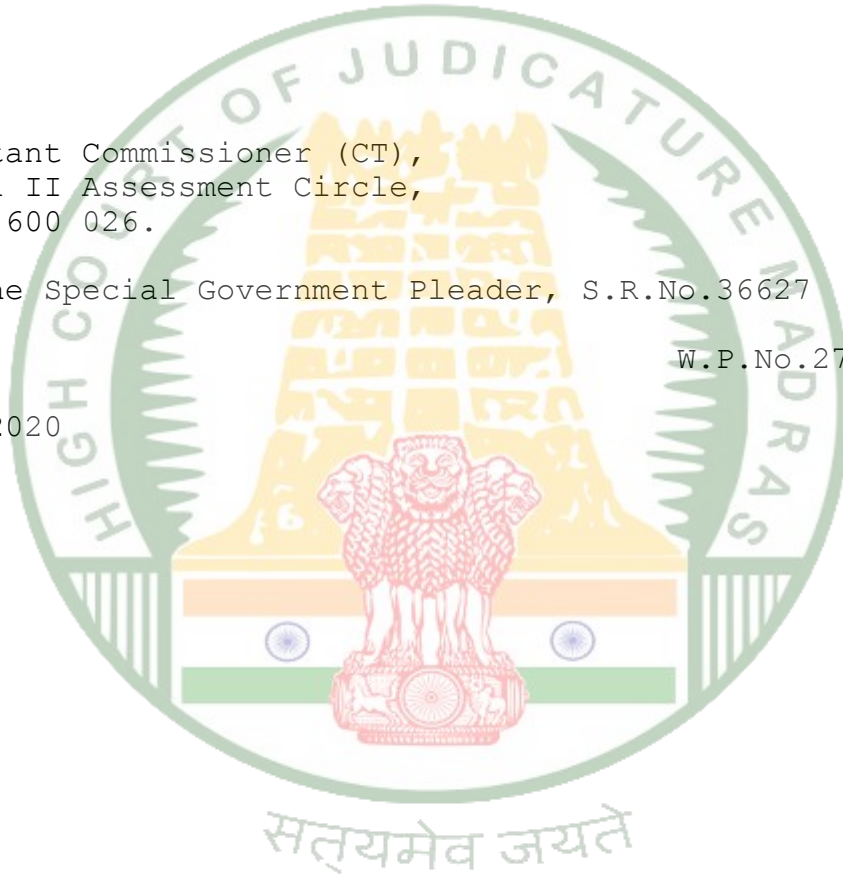
To

The Assistant Commissioner (CT),
Vadapalani II Assessment Circle,
Chennai - 600 026.

+1cc to the Special Government Pleader, S.R.No.36627

W.P.No.27647 of 2012

CS/03/12/2020



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