IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

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

W.P. No. 12992 of 2014
and
M.P. Nos. 1 to 3 of 2014

M/s. SWP (Madras) Ltd.,
Rep. by its Director - D.K.Agarwal,
SWP Road,
Thiruvallur - 602 001,
Thiruvallur District. ...Petitioner

-vs-

1. The Commercial Tax Officer,
   Thiruvallur Assessment Circle,
   Thiruvallur.

2. The Branch Manager,
   Andhra Bank,
   T.T.K. Road,
   Alwarpet,
   Chennai - 600 018. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the First Respondent in his impugned proceedings made in TNGST : 1720045/ 1997-98 & 1998-1999/A3 dated 06.03.2014 (Recovery of Tax under Section 45 of the TNVAT Act '06) to the Second Respondent Bank to attach the Bank Account of the Petitioner, quash the same.

For Petitioner	:	Mr. S.Rajasekar
For Respondents	:	Mr. R.Swarnavel, Government Advocate (for R1) No appearance (for R2)

O R D E R
(through video conference)

Heard Mr. S.Rajasekar, Learned Counsel for the Petitioner and Mr. R.Swarnavel, Learned Government Advocate appearing for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order in TIN/TNGST No: 1720045/ 1997-98 & 1998-99 dated 06.03.2014 passed by the First Respondent proposing to attach the bank account of the Petitioner, distraint his movable and immovable properties and file application before the Magistrate for recovery of sales tax arrears for the years 1998-1998 and 1998-1999, which was then due.

3. It is brought to notice that the Appellate Deputy Commissioner (CT)-V, Kancheepuram by order dated 17.12.2009 in A.P. No. 22 of 2007 has held that the Petitioner is not liable to tax as well as penalty in respect of year 1997-1998 and after the filing of the Writ Petition, the assessment order in respect of the year 1998-1999 has been set aside in the order dated 28.01.2015 in S.T.A. No. 123 of 2010 passed by the Sales Tax Appellate Tribunal (Main Bench), Chennai and the matter has been remanded to the First Respondent for fresh decision. Since the assessment orders in respect of the year 1997-1998 and 1998-1999 have ceased to exist, the consequential order for recovery, which is impugned in this Writ Petition, stands nullified and it is quashed. Though obvious, it is made clear that depending upon the outcome of the fresh proceedings for assessment for the year 1998-1999, the First Respondent shall not be precluded from recovering any amount, if then found due, in accordance with law.

In the result, Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt/dm

To

1. The Commercial Tax Officer,
Thiruvallur Assessment Circle,
Thiruvallur.

2. The Branch Manager,
   Andhra Bank,
   T.T.K. Road,
   Alwarpet,
   Chennai - 600 018.

+1cc to Special Govt. Pleader(Taxes),SR41202
+1cc to Special Govt. Pleader(Taxes),SR42512

W.P. No. 12992 of 2014

CO(MJB)
BDL/06/01/2021