IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.23710 OF 2012

N.Dhandapani ... Petitioner

.Vs.

1. The Deputy Commercial Tax Officer,
   Harur Assessment Circle,
   Harur, Dharmapuri District.

2. A.Babu ... Respondents

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the 1st respondent herein to consider and pass orders on the representation made by the petitioner dated 09.08.2012 with regard to lift the attachment of petitioner's properties by the 1st respondent herein for the recovery of tax liability of Rs.2,28,715/- arose for the assessment year 1995-96 under the TNGST Act 1959.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.V.Veluchamy
Government Advocate
[For R1]

R2 – Dismissed vide court order dated 10.03.2020

ORDER

The relief sought for in this writ petition is for a direction to direct the 1st respondent to consider and pass orders on the representation made by the petitioner dated 09.08.2012 with regard to lift the attachment of petitioner's properties by the 1st respondent for the recovery of tax liability of Rs.2,28,715/- arose for the Assessment Year 1995-96 under the TNGST Act 1959.

2. The learned counsel for the petitioner made a submission that the personal property of the petitioner is sought to be attached. However, the firm, in which, the petitioner was a proprietor and the said firm was transferred in favour of the second respondent and the firm owns certain properties.

3. However, it is an admitted fact that the petitioner transferred the firm in favour of the second respondent and as far as the Commercial Tax Department is concerned, this complex facts, circumstances and issues raised between the petitioner and the second respondent are to be adjudicated with reference to the documents and evidences. If at all the petitioner is entitled for any relief, that is to be considered only after complete adjudication of facts and circumstances. Mere direction is sought for to lift the attachment based on the representation cannot be considered by this Court. The statutory provisions contemplates attachment of property on certain circumstances and the authorities are bound to follow the procedures as contemplated under the Statute and Rules. As far as the representation is concerned, the petitioner is at liberty to submit a fresh representation as the writ petition was filed in the year 2012 and in the event of submitting any such representation, the authorities have to look into the grievances and if the petitioner is entitled for any relief, the same may be considered on merits and in accordance with law.

4. With these observations, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Kak

To

The Deputy Commercial Tax Officer,
Harur Assessment Circle,
Harur, Dharmapuri District.

+1cc to the Special Government Pleader (Taxes), S.R.No.36175

W.P.NO.23710 OF 2012

PM(CO)
PBS/17/08/2021