IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25013 of 2018
and
W.M.P.No.29049 of 2018

S.Karthikeyan .. Petitioner

-vs-

1.The Commercial Tax Officer,
Polur, Tiruvannamalai District.

2.The Principal,
Shanmuga Industries Arts and Science College,
SH.68, Manalurpet Road,
Kilnakarai, Tiruvannamalai-606 601. .. Respondents
[R2 - Impleaded vide Court order dated 23.11.2018
in WMP No.33216 of 2018 in WP No.25013 of 2018]

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in notice in RC.A3/5113/2013 dated 25.07.2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.Prabhakaran
For Mr.G.Rajan

For R1 : Mr.V.Nanmaran,
Government Advocate

ORDER

The order dated 25.07.2018, passed by the first respondent regarding the recovery of action initiated in Form 'U', is under challenge in the present writ petition.

2.It is contended that the petitioner is a registered dealer on the file of the Commercial Tax Officer, Polur, the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the TNVAT Act”). While doing business for the year 2009-10, they have not paid the arrears amount of Rs.3,78,249/- to the Government.

3.The first respondent found that as per their office record, the petitioner/dealer have business dealing with the second respondent, the Principal, Shanmuga Industries Arts and Science College, Manalurpet Road, Kilnakarai, Tiruvannamalai. Thus, the first respondent along with the order dated 25.07.2018, enclosed a notice in form 'U' for recovery of money due. It is stated in the notice dated 25.07.2018 that the amount as specified or the amount available with the second respondent on account of defaulter may be sent by crossed demand draft or Banker's cheque in favour of the first respondent.

4.The impugned notice is absolutely not connected with the petitioner, who is the defaulter. The impugned notice dated 25.07.2018 was addressed to the Principal, Shanmuga Industries Arts and Science College, Tiruvannamalai. The said college has been subsequently impleaded as second respondent in the writ petition, vide order dated 23.11.2018. The first respondent has invoked the powers under Section 45(1) of the TNVAT Act and informed the second respondent that the amount as specified or the amount available with the second respondent on account of the defaulter may be sent in favour of the first respondent/Department. Thus, the petitioner is not an aggrieved person, as far as the impugned order is concerned. Further, the impugned order is not directly connected with the petitioner. It was issued to the second respondent, who in turn, was directed to pay the amounts due in favour of the Commercial Tax Officer, Polur.

5.This being the nature of the impugned order, the petitioner has no locus standi to challenge the impugned order dated 25.07.2018. If at all the second respondent is having any grievance over the impugned order, it is left open to the second respondent to prefer an appeal against such an order, or approach the competent authority for redressal of the same.

6.In view of the fact that the impugned order is not addressed to the petitioner and it is relatable to the second respondent, the writ petition is not entertainable and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Abr

To

The Commercial Tax Officer,
Polur, Tiruvannamalai District.

+1cc to Mr.R.Rajarajan, Advocate, S.R.No. 32513
+1cc to the Special Government Pleader, S.R.No. 32701

W.P.No.25013 of 2018

SR(CO)
GN(13/08/2021)