



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.22785 OF 2021

&

WMP.NO.24008 OF 2021

Mr. N.K.Nandhagopal

... Petitioner

Vs

1. Assistant Commissioner (ST)
North Circle, Tirupur
2. The Principal Secretary and Commissioner
of Commercial Taxes
Ezhilagam, Chepauk
Chennai - 600 005.
3. TCS Textiles Private Limited
No.68, College Road
Tirupur.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the impugned proceedings vide Ma.ku.Va.Sa 33482303238/2018 dated 14.06.2018 and quash the same and direct the First Respondent to lift the encumbrance registered upon the property situated at Survey Nos. 261/3, 261/4 and 261/5 (totalling to 6 acres and 34 cents), Pachapalayam Village, Kangayam Taluk, Vellakovil Sub-registry, Tirupur.

For Petitioner : Mr. Adithya Reddy

For Respondent : Ms. Amirta Dinakaran
Government Advocate for R1 & R2
Ms. Sri Harini for R3



ORDER

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 28.10.2021, which reads as follows:

'Mr.Adithya Reddy, learned counsel for writ petitioner submits that vide impugned order dated 14.06.2018, the writ petitioner's (natural person-individual) property has been attached for alleged dues of the company in which he is a director, but the company is pursuing a challenge to levy vide W.A.No.195 of 2020 and a Hon'ble Division Bench is in seizin of the matter.

2. Ms.Amirta Dinakaran, learned Revenue counsel who accepts notice on behalf of respondents 1 & 2 (official respondents) requests for time to get instructions and revert to this Court.

3. Registry to show the name of learned Revenue counsel in the cause list from next listing.

4. List under the cause list caption 'ADJOURNED ADMISSION' tomorrow i.e., on 29.10.2021.'

2. Mr.Adithya Reddy, learned counsel for writ petitioner and Ms.Amirta Dinkaran, learned Revenue counsel for Respondents 1 and 2 (official respondents) are before this Court. Mr.C.Sri Harini, learned counsel accepts notice on behalf of third respondent.

3. This Court, with the consent of all the aforementioned learned counsel, takes up the main writ petition as it turns on a very narrow compass. Adverting to earlier proceedings dated 28.10.2021, learned Revenue counsel submits that the factual position projected by learned counsel for writ petitioner is not disputable, but nonetheless as some security was required, the attachment had been made.

4. In the considered view of this Court, the above argument cannot be sustained as the assessee is a company i.e., a juristic person. To be noted, it is a private limited company.



Absent liquidation, malfeasance or misfeasance, the question of attaching the properties of a Director (natural person) will not arise. There is no disputation or disagreement regarding this proposition. Therefore, captioned writ petition is allowed and the impugned order dated 14.06.2018 is set aside. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

1. Assistant Commissioner (ST)
North Circle, Tirpur
2. The Principal Secretary and Commissioner
of Commercial Taxes
Ezhilagam, Chempauk
Chennai - 600 005.

+1cc to Mr. Adithya Reddy, Advocate, S.R.No.56407
+1cc to the Special Government Pleader, (Taxes)S.R.No.56791

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KSM(CO)
PM/22/11/2021