



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 25064 of 2017 and
W.M.P. No. 26472 of 2017

M/s.Eureka Automobiles Private Limited,
(Represented by its Director N.S.Srinivasan)
10/8, Convent Street,
T.P.Chatram, Shenoy Nagar,
Chennai - 600 030.

... Petitioner

-vs-

1. The Assistant Commissioner (CT),
T.Nagar Assessment Circle,
No.46, Greenways Road,
R.A.Puram.
2. M/s.Indian Bank,
Branch Manager,
No.55, Ethiraj Salai,
Egmore, Chennai - 600 008.
3. M/s.MPL Cars Private Limited,
Old No.11, New No.25,
Bagavantham Street, T.Nagar,
Chennai - 600 017.
4. Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.
5. Government of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes Department,
Fort St.George, Chennai - 600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records relating the impugned notice in Rc.1669-1/2016/A3 dated 23.08.2017.

For Petitioner : Mr.R.Raghavan Ramabadran

For Respondents : Mr.V.Veluchamy
Govt. Advocate for R1, R4 & R5
No appearance for R2
R3 - Notice sent left



O R D E R

The order dated 23.08.2017 passed by the first respondent recording the arrears of sales tax under TANVAT Act, 2006 as well as the action initiated under Section 45 of the Act for recovery of tax. It is brought to the notice of this Court that, at the time of admission, this Court passed an interim order directing the petitioner to deposit a sum of Rs.77,65,227/- to the credit of this Writ Petition in the Indian Bank, High Court of Madras within a period of two weeks and the said amount is directed to be kept in an interest bearing account till the disposal of this Writ Petition. Pursuant to the said interim order dated 19.09.2017, further interim order was passed by this Court on 30.10.2017 stating that, the petitioner has complied with the condition imposed by this Court, in its order, dated 19.09.2017. The delay in compliance was also condoned.

2. Admittedly, an action was initiated by the respondent under Section 45 of the Act for recovery of arrears of tax.

3. Admittedly, the defaulter payment of sales tax is M/s.MPL Cars Private Limited. In respect of the sales tax arrears to be paid by M/s.MPL Cars Private Limited, the respondents issued notice to the petitioner M/s.Eureka Automobiles Private Limited. Pursuant to the interim order passed by this Court, a sum of Rs.77,65,227/- was deposited to the credit of the Writ Petition on hand.

4. Let us consider Section 45(5) of the TNVAT Act, which reads as under:

"Section 45(5): Where any person to whom a notice under this Section is served, objects to it by a statement in the prescribed form that the sum demanded or any part thereof is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or part thereof, as the case may be, to the assessing authority, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the assessing authority to the extent of his own liability to the dealer on the date of the notice or to the extent of the liability of the dealer for the amount due under this Act, whichever is less"

5. In view of the fact that the notice was issued by the respondents and the order passed by the respondents in the said order is challenged in the present Writ Petition and pursuant to the direction, interim order has been passed by this Court. The amount stated above also has been deposited in



the Indian Bank, High Court Branch. This Court is of an opinion that the said amount is to be disbursed in favour of the first respondent so as to adjust the said amount in the credit of defaulter of tax payment. As far as the balance amount if any is concerned, tax department is at liberty to initiate all appropriate proceedings by following procedures contemplated under law. Accordingly, if any payable by the petitioner in favour of M/s.MPL Cars Private Limited, then further action may be taken. Accordingly, the first respondent is directed to withdraw the deposited amount of Rs.77,65,227/- along with accrued interest by submitting letter to the Indian Bank, High Court Branch and on receipt of the letter, the Indian Bank, High Court Branch at Chennai is directed to disburse the said amount with accrued interest in favour of the first respondent.

6. With these directions, this Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition also closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

vji

To

1. The Assistant Commissioner (CT),
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+1cc to M/r. Lakshmi Kumar, Advocate, SR.No.40168

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AD (CO)
CT (07/09/2021)