

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2021

CORAM

THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P.No. 25941 of 2018

and

W.M.P.No. 30155 of 2018

Mohamed Ishaq

... Petitioner

Vs

1. Commercial Tax Officer,
Polur.

2. Tvl. Hibba Food Products,
No.19, Pakkumudaiyanoor,
Jamunamarathur, Polur Taluk - 635 793. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Na.Ka.A3/458/2014 dated 03.09.2015 and quash the same and direct the 1st respondent to release the attachment of the properties situated at C Block, No.1, Town Survey No.120 Part (dry land) and S.No.195 (Part), Ambur Town, Kollai, 1st Street, Door No.11.

For Petitioner : Mr.Adithya Reddy

For Ist Respondents: Mr.M.Hariharan
Additional Government Pleader

ORDER

The Petitioner has filed the writ petition, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Na.Ka.A3/458/2014 dated 03.09.2015 and quash the same and direct the 1st respondent to release the attachment of the properties situated at C Block, No.1, Town Survey No.120 Part (dry land) and S.No.195 (Part), Ambur Town, Kollai, 1st Street, Door No.11.

2. The petitioner offered security at the time of obtaining registration under the provisions of the TNVAT Act, 2006, by one Minara Ruhi. At the time of furnishing security, the petitioner had agreed to furnish a security for a sum of Rs.4,00,000/-. In the Security Bond, the property of the petitioner has given as Rs.4,00,000/-. It appears that the registered dealer/authority

Minara Ruhi has defaulted in payment/VAT for an amount of Rs.3,80,51,899/- and therefore the respondents proposed to initiate the recovery proceedings to recover the arrears of tax due from the registered dealer Minara Ruhi and from the petitioner, as the petitioner had offered security in Form-F.

3. Earlier the petitioner had filed writ petition in W.P.No.5935 of 2017, to direct the 1st respondent to furnish a copy of Form-F. Pursuant to which an interim direction on 10.03.2017 Form-F was furnished to the petitioner. Thereafter the said writ petition was disposed of in the light of the compliance of direction dated 10.03.2017 by the respondent.

4. In this writ petition, the petitioner has filed copy of the Form-F. The details of which is extracted hereunder:-

FORM F

SECURITY BOND

Rule 5(a) (a)

Form of enquiry to be file before the registering authority whereas (Name of the applicant) MINARA RUHI
Has filed an application before the registering authority CTO POLUR

Assessment circle for registration and whereas the said registering authority has directed to him to furnish security for a sum of Rs.4,00,000/-. As required under Section 39 of the Tamilnadu Value Added Tax Act, 2006.

I, we Md, ISHAQ S/o Abdul Rahman hereby mortgage the properties specified in the schedule hereunto annexed for the payment of the sum of Rs.4,00,000/- to the government of tamil nadu under section 39 of the said act and covenant that if the security amount due section 39 is not required this bond shall be void and of no effect otherwise it shall remain in full form and effect.

In witness whereof i/we hereunto affixed my/our hands and seal this day of 24.01.2013.

Witness

1.Ravoof Md.PUraaaa,, 1st Street, AmburTaluk, Ambur

2.Sowkath Ali, S/o.Ibrahim, 9, Saipan Salai Gail Street, Ambur.

PROPERTY SCHEDULE

1.Name and address of the owner	Md ISHAQ S/o Abdul Rahman No.33/11, Kutchikara Yachoobi, Ambur
2. nature situation and extent of the property secured	100%
3. survey no, assessment no	120 ward C Block
4. date of registration no. and office or registration etc.,	28.03.2008 document 1968/08
5. market value	Rs.4,00,000/-

---SIGNED---
SIGNATURE OF THE SURETY

5. From a reading of Form-F executed by the petitioner on 10.01.2015 and the provisions of the Tamil Nadu Value Added Tax Act, 2006, it is evident that the petitioner can be made liable only for a sum of Rs.4,00,000/-.

6. Therefore, this Writ Petition is disposed by directing the petitioner to pay the aforesaid sum of Rs.4,00,000/- to the account of the 1st respondent (Commercial Tax Officer, Porur) within a period of 60 days from the date of receipt of a copy of this order. On such deposit being made by the petitioner, the charge purported to have been made against the petitioner's property shall stand quashed, failing such deposit, the impugned order shall stand revived.

7. This Writ Petition stands disposed of with the above observations. No cost. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arb

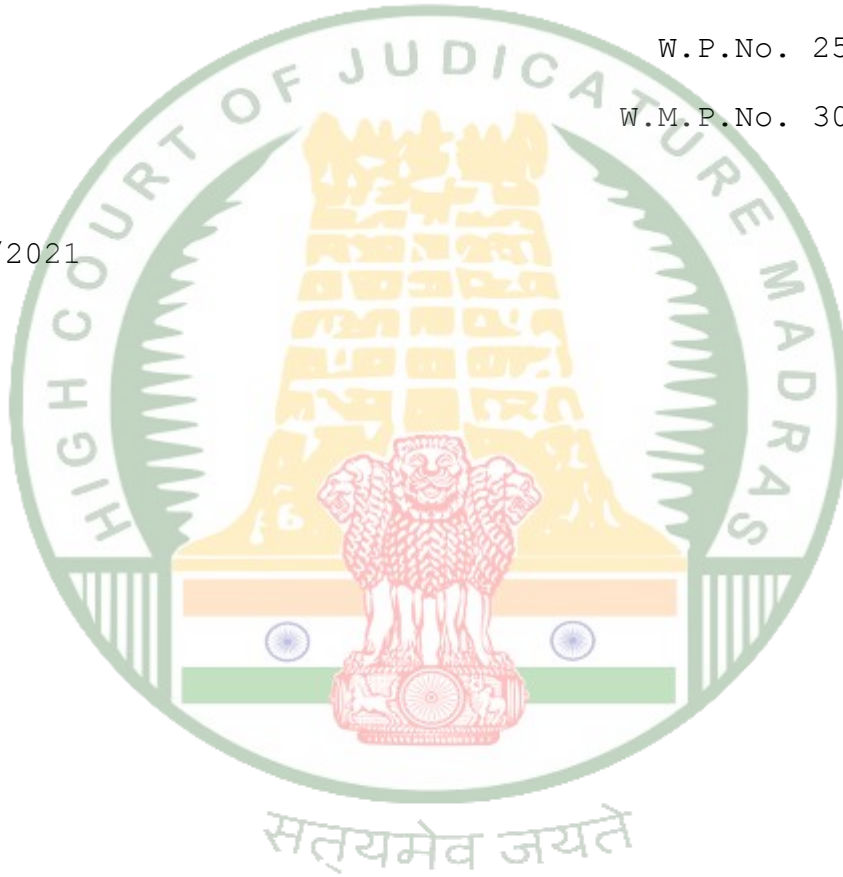
To

The Commercial Tax Officer,
Polur.

+1cc to the Special Government Pleader Sr.3803
+1cc to Mr.Adithya Reddy, Advocate Sr.3617

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