BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.01.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.8764 of 2013 &
M.P.(MD)Nos.1 & 2 of 2013

The Branch Manager,
The Tamil Nadu Industrial Investment Corporation Limited,
D.No.1130-C, First Floor,
Opp. To Sothurani, Ramnad-Rameswaram Road,
Bharathi Nagar, Ramanathapuram. ... Petitioner

Vs.

1. The Commercial Tax Officer,
Mudukulathur,
Ramanathapuram District.

2. M/s.A1 Aqua Pipes(India) Pvt. Ltd.,
No.6, Uppoorani East Lane,
Abiramam – 623 601,
Ramanathapuram District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned sale notice bearing Na.Ka.No.A3/7/99 dated 03.05.2013 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Murugan

For R-1 : Ms.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side.

2. The petitioner had advanced loan to the second respondent. The petitioner became a secured creditor. However, this was in the year 1990. The second respondent had committed default and the petitioner wanted to proceed against the secured asset. But then, the petitioner was unable to do so because of the impugned proceedings issued by the first respondent, namely, the Commercial Tax Officer, Muthukulathur. The stand of the first respondent is that the second respondent is a registered assessee and that they are entitled to proceed against the property in question for liquidating the sales tax arrears.

3. Now the question is who will have the priority whether it will be the Tamil Nadu Industrial Investment Corporation or the Commercial Tax Department. The issue is no longer *res integra*. As pointed out by the learned counsel appearing for the petitioner, the Full Bench of the Madras High Court in the decision reported in 2016 (6) CTC 769(Assistant Commissioner(CT) V. Indian Overseas Bank) had answered the issue in favour of the secured creditor. I had followed the said Judgment in W.P.(MD)No.19827 of 2018 vide order dated 09.11.2018.

4. In the recent decision of the Madras High Court, namely, W.P.No.13385 of 2020, dated 01.10.2020, the very same issue came up for consideration. I am of the view that the recent view which favours the secured creditor.

5. Therefore following those precedents, notice impugned in this writ petition is quashed. This writ petition stands allowed. No costs. Consequently, connected M.Ps. Are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Commercial Tax Officer,
Mudukulathur,
Ramanathapuram District.

+1 CC to MR.R.SARAVANAN, Advocate (SR-2242[F] dated 27/01/2021)

W.P.(MD)No.8764 of 2013
25.01.2021

KM (05.03.2021) 2P 3C