



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.16289 of 2021

M/s. Cholamandalam Investment and
Finance Company Limited,
represented by its Authorised Signatory ... Petitioner

-Vs-

- 1.The Principal Secretary,
Ministry of Finance,
Jeevan Deep Building, Sansad Marg,
New Delhi - 110 001.
 - 2.The Principal Commissioner,
Income Tax Department,
No.2, VP Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.
 - 3.The Assistant Commissioner,
Income Tax Department,
Central Circle 2 Madurai,
Kulamangalam Main Road,
Meenambalpuram, Madurai - 625 002.
 - 4.The Joint Commissioner,
Office of Additional / Joint Commissioner,
of Income Tax Department,
No.19A, WGC, Tuticorin - 628 001.
 - 5.Tax Recovery Officer,
TRO 1 Madurai,
Income Tax Office - Madurai MA,
No.2, VP Rathinasamy Nadar Road,
CR Building, Bibikulam,
Madurai - 625 002.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the fifth respondent to expeditiously dispose the petition filed on 22.04.2021 under Rule 11(6) of II Schedule of the Income Tax Act within the time fixed by this Court.

<https://hcservices.ecourts.gov.in/hcservices/>



For Petitioner : Mr.K.J.Parthasarathy
For Respondents : Mrs.S.Srimathy
1, 2, 4 & 5 : Senior Standing Counsel
For Respondent 3 : Mr.N.Dilipkumar
Standing Counsel

WEB COPY

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the fifth respondent to expeditiously dispose of the petition filed on 22.04.2021 under Rule 11(6) of II Schedule of the Income Tax Act.

2.The case of the petitioner is that, in respect of one T.Sathish Kumar, some loan was advanced by the petitioner's company and in respect of which, his property was mortgaged to the petitioner's company by the said borrower on 19.02.2015. Therefore, a first charge was created against the said property.

3.Subsequently, it seems that, since the said individual because of the alleged default in paying the tax payable to the income tax authorities, they have attached the very same property for various assessment years by way of attachment orders dated 20.03.2017, 09.10.2017, 06.12.2017 and 09.07.2018. The property is at Door No.205 & 205A in T.S.No.332/3 part in Ward No.35, Block No.9, George Road, Tuticorin.

4.In view of the subsequent attachments made by the Income Tax Department, which comes to the knowledge of the petitioner's Company, it has rightly approached the fifth respondent, by filing a petition under Rule 11(6) of the II Schedule of the Income Tax Act on 22.04.2021. However, the said petition is still not disposed by the fifth respondent. Therefore, in order to dispose of the same, the petitioner has filed this writ petition seeking for Writ of Mandamus as prayed herein.

5.I have heard, Mr.K.J.Parthasarathy, learned counsel appearing for the petitioner, who having reiterated the aforesaid, seeks indulgence of this Court to issue suitable direction to the fifth respondent to dispose of the petition filed as stated above dated 22.04.2021, on merits, within a time frame that may be stipulated by this Court.

6.I have heard Mrs.S.Srimathy, learned Standing Counsel appearing for the 1st, 2nd, 4th and 5th respondents and also Mr.N.Dilipkumar, learned Standing Counsel appearing for the 3rd respondent, who, on instructions, would submit that, the petition dated 22.04.2021, filed by the petitioner before the fifth respondent would be considered and decided on merits, within a reasonable time, that may be fixed by this Court.



7. Having regard to the said submissions made by learned counsel appearing for the parties and taking into account the nature of the innocuous prayer sought for by the petitioner, this Court is inclined to pass the following orders:

"that there shall be direction to the fifth respondent to consider and decide the petition filed by the petitioner Company dated 22.04.2021, under Rule 11(6) of II Schedule of the Income Tax Act, on merits and in accordance with law, within a period of six (6) weeks from the date of receipt of a copy of this order."

8. With these directions, this writ petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PNM/MR

Note:

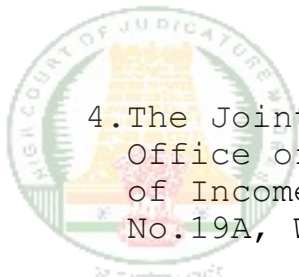
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Principal Secretary,
Ministry of Defence,
Jeevan Deep Building, Sansad Marg,
New Delhi - 110 001.

2. The Principal Commissioner,
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3. The Assistant Commissioner,
Income Tax Department,
Central Circle 2 Madurai,
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4.The Joint Commissioner,
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5.Tax Recovery Officer,
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Madurai - 625 002.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-28883[F]
dated 13/09/2021)

+1 CC to M/s.K.J.PARTHASARATHI, Advocate (SR-28769[F]
dated 09/09/2021)

Order made in
W.P. (MD) No.16289 of 2021
Dated:
09.09.2021

GC(15.09.2021) 4P 8C