IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.19506 OF 2021

(THROUGH VIDEO CONFERENCING)

K.Koteeswaran ...Petitioner

Vs

1. The State Tax Officer,
   Harur Assessment Circle,
   Harur.

2. The Appellate Deputy Commissioner,
   Commercial Tax, Salem. ...Respondents

(2nd Respondent Suo Moto as impleaded vide order dated 03.01.2022 in WP.19506 of 2021)

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent in Na.Ka.No.0029/2018/A2 dated 22.01.2021 and quash the same and directing the respondent to lift the attachment in so far as the portion of the property in Survey No.9/2B, 9/2B-1-Plot Nos.19 & 20 and Survey Nos.9/2B, 9/2A (5100 square feet) is concerned only as requested vide representation dated 04.01.2021.

For Petitioner : Mr.R.Senniappan

For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate

ORDER

The petitioner has challenged the impugned communication dated 22.01.2021 of the respondent rejecting the request of the petitioner to lift the order of attachment and to permit the petitioner to dispose some of the assets of the petitioner.

2.The petitioner is in arrears of tax for the Assessment Years 2010-11 to 2014-15 vide Assessment order dated 23.09.2019 and that the petitioner's appeal is now pending before the Appellate Commissioner which is likely to be taken up for final hearing on 05.01.2022.

3.The learned counsel for the petitioner submits that the petitioner may be permitted to dispose the assets and pay the amount directly to the credit of the Government for liquidation of impugned tax liability.

4.Opposing the prayer, the learned Government Advocate for the respondent submits that the dispute pertains to the Assessment years 2010-11 to 2014-15 and that after the petitioner filed the appeal and that, five different opportunities were given to the petitioner to appear before the Appellate Commissioner but the petitioner has not utilized the same. Instead, the petitioner is dragging his feet and has now challenged the impugned communication. It is submitted that the pending disposal of the Appeals, question of granting permission to the petitioner does not arise.

5.Heard learned counsel for the petitioner and the learned Government Advocate for the respondents.

6.Admittedly, the petitioner's appeal is to be taken up for final hearing on 05.01.2022 as informed by the learned counsel for the petitioner and confirmed by the learned Government Advocate for the respondents. Since the issue pertains to the Assessment years 2010-11 to 2014-15, the Appellate Commissioner who is impleaded as second respondent in this appeal suo-moto is requested to pass a final order on merits and in accordance with law preferably within a period of 30 days from the date of receipt of copy of this order.

7.Pending disposal of such appeal, the property shall remain attached and all further proceedings regarding the property will be subject to final outcome of the appeal of the petitioner's i.e, pending before the second respondent/Appellate Deputy Commissioner, Commercial Tax, Salem herein.

8.Accordingly, this writ petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

To

1. The State Tax Officer,
   Harur Assessment Circle,
   Harur.

2. The Appellate Deputy Commissioner,
   Commercial Tax,
   Salem.

+1cc to the Special Government Pleader (Taxes), S.R.No.863

W.P.No.19506 of 2021

SJ(CO)
PM/25/02/2022