IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.23100 AND 25241 OF 2014
AND
M.P.NOS.1 OF 2014 AND 1 AND 2 OF 2014

M/s.Indian Oil Corporation Ltd.,
(Marketing Division)
Trichy Divisional Office
rep. by Senior Divisional Retail Sales Manager

... Petitioner in W.P.23100/2014

R.Somu @ Munian

... Petitioner in W.P.25241/2014

Vs.

1. The Collector
   Government of Puducherry.

2. The Sub Collector (Revenue) South,
   Vallianur, Government of Puducherry.

3. The Village Administrative Officer,
   No.81, Manapet Revenue Village,
   Bahour Taluk, Puducherry.

4. The Additional Deputy Commercial Tax Officer – II,
   Commercial Tax Office,
   Puducherry.

5. PAPSCO
   Service Provider,
   IOCL CoCo Petrol Bank,
   No.33, Kanniakoil,
   Pondy Cuddalore Road,
   Puducherry – 607 402.

6. R.Muthuraman

... Respondents in W.P.23100/2014

1. The District Collector
   Puducherry.

2. The Deputy Collector (Revenue) North,
   Government of Puducherry,
   Puducherry.

3. The Thasildar,
   Government of Puducherry,
   Taluk Office,
   Oulgaret,
   Puducherry.

4. R.Muthuraman

... Respondents in W.P.25241/2014

Prayer in W.P.No.23100 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents 1 to 3 their men agent, servants and officer in any manner interfering with the day today routine operations of the CoCo Retail outlet of the petitioner located at Survey No.146/8A/1 & 146/8B on Mariamman Koil Street, Manapet Village, Bahour Taluk, Pondicherry measuring at extent of 17,004 sq.ft. operated through the service provider the 5th respondent herein pursuant to the issuance of Form No.1 (Distraint Order) dated 14.08.2014 against M/s.Nehru Service Centre the 6th respondent herein under section 8 of the Pondicherry Revenue Recovery Act, 1970 in respect of arrears tax to the Commercial Tax Department of Puducherry on 26.08.2014 or any other future date.

Prayer in W.P.No.25241 of 2014:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent in proceedings No.1017/TOO/B/RR/2014 dated 19.08.2014 and 03.09.2014 under Sections 8 and 25 of Pondicherry Revenue Recovery Act, 1970 in respect of arrears of tax to the Commercial Tax Department of Puducherry payable by the fourth respondent herein and quash the same and consequently forbearing the respondents 1 to 3 and their men, agent, servants and officer in any way interfering with the peaceful possession and enjoyment of the petitioner property at R.S.No.170/4 of Karuvadikuppam Revenue Village, Door No.38, Edayanchavadi Road, Karuvadikuppam, Puducherry - 605 008.

For Petitioners	:	Mr.T.R.Rajagopalan Senior Counsel for M/s.R.Ravi in W.P.23100/2014 Mr.G.Krishna Kumar in W.P.25241/2014
For Respondents	:	Mr.J.Kumaran for R1 to R4 Additional Government Pleader (Puducherry) M/s.Prathipa Ashok for R5 Mr.M.Sathish for R6 in W.P.23100/2014 Mr.J.Kumaran for R1 to R3 Additional Government Pleader (Puducherry) Mr.M.Sathish for R4 in W.P.25241/2014

C O M M O N   O R D E R

The issue involved in both these writ petitions are related to each other and hence, they are heard together and disposed of by way of a common order.

2.The facts of the case is that R.Muthuraman is the younger brother of R.Somu @ Munian / petitioner in W.P.No.25241 of 2014 and he along with another person namely, K.Mani operated the retail outlet of Indian Oil Corporation Limited / petitioner in W.P.No.23100 of 2014 in the subject properties. The said R.Muthuraman has tax dues to the Commercial Tax Department, Puducherry, for sale of petroleum products for the assessment year 2000 - 2001. Hence, the Thasildar, Government of Puducherry, affixed the impugned proceedings dated 19.08.2014 and 03.09.2014 under Sections 8 and 25 of Pondicherry Revenue Recovery Act, 1970, as requested by the District Collector, Puducherry, in the subject property for recovery of the arrears of tax from the said R.Muthuraman. Since the subject property is an ancestral property, the petitioner in W.P.No.25241 of 2014 filed the said writ petition challenging the recovery proceedings. The Revenue Authorities also passed a distraint order dated 14.08.2014 as against the said R.Muthuraman. Apprehensive about the consequence that may ensue on the subject property, the petitioner in W.P.No.23100 of 2014 has filed the said writ petition.

3.The learned Senior Counsel appearing for the petitioner in W.P.No.23100 of 2014 submitted that without due process of law, the commercial activities in the subject property cannot be interfered with.

4.The learned counsel appearing for the petitioner in W.P.No.25241 of 2014 submitted that the petitioner is a co-sharer of the subject property. Though R.Muthuraman has huge tax dues to the Commercial Tax Department, without issuing any notice to the petitioner, affixing the revenue recovery proceedings in the subject property is not sustainable one.

5.The learned Additional Government Pleader (Puducherry) submitted that already the Additional Deputy Commercial Tax Officer - II, Commercial Tax Office, Puducherry, initiated proceedings against the said R.Muthuraman and concluded the same and since the commercial tax dues were not paid in time, the Additional Deputy Commercial Tax Officer - II, requested the Revenue Authorities under the Pondicherry Revenue Act for collection of the amount, pursuant to which the impugned orders came to be issued. Hence, without challenging the commercial tax proceedings, challenging the consequential proceedings is not sustainable.

6.The learned counsel appearing for R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014, on instructions, submitted that the entire commercial tax dues will be cleared within a period of twelve weeks from the date of receipt of a copy of this order. Till then, this Court may direct the Official respondents not to take any coercive steps as against R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014 and the petitioner in W.P.No.25241 of 2014.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the case is not in dispute. Admittedly, R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014 has huge tax dues to the Commercial Tax Department, Puducherry, for sale of petroleum products for the assessment year 2000 - 2001. Hence, the Additional Deputy Commercial Tax Officer - II, Commercial Tax Office, Puducherry, initiated proceedings against the said R.Muthuraman and concluded the same and since the commercial tax dues were not paid in time, the Additional Deputy Commercial Tax Officer - II, issued a certificate and requested the Revenue Authorities, for collection of the amount, under the Pondicherry Revenue Act, pursuant to which, the impugned orders came to be issued. Hence, without challenging the commercial tax proceedings, challenging the consequential proceedings is not sustainable.

9.However, it is now represented by the learned counsel appearing for R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014, that the entire commercial tax dues will be cleared by R.Muthuraman, within a period of twelve weeks from the date of receipt of a copy of this order.

10.Hence, this Court permits R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014, to pay the entire commercial tax dues, within a period of twelve weeks from the date of receipt of a copy of this order. The Official respondents shall not to take any coercive steps as against R.Muthuraman/ sixth respondent in W.P.No.23100 of 2014/ fourth respondent in W.P.No.25241 of 2014 and the petitioner in W.P.No.25241 of 2014, for a period of twelve weeks from the date of receipt of a copy of this order.

11.With the above observations, these writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
   Puducherry.

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Government of Puducherry,
Puducherry.

6. The Thasildar,
Government of Puducherry,
Taluk Office,
Oulgaret,
Puducherry.

+1cc to Mr.G.Krishna Kumar, Advocate, S.R.No.27879
+1cc to Mr.M.Sathish, Advocate, S.R.No.27878
+1cc to the Government Pleader(Puducherry), S.R.No.28084

W.P.Nos.23100 and
25241 of 2014
And
M.P.Nos.1 of 2014 and
1 and 2 of 2014

MT(CO)
PM/19/05/2022