



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN
W.P. (MD) No.7880 of 2022

and

W.M.P. (MD) Nos.5920 to 5922 of 2022

Tvl.G.Sankar Timber Depot,
represented by its Partner S.Prabhakaran,
No.479, Tenkasi Road,
Piranoor,
Shencottai.

... Petitioner

/vs./

The State Tax Officer (Adjudication),
(Intelligence Wing),
Tirunelveli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in FORM GST DRC-16 dated 20.11.2021 and the same was affixed only on 14.12.2021 in a conspicuous place on petitioner premises and quash the same as illegal and consequently directing the respondent to obey the order of this Court in C.M.P.(MD). No.7812, 7813 and 7814 of 2021 in W.A.(MD).Nos.691 to 693 of 2021 dated 24.11.2021 and to consider petitioner representation dated 16.12.2021 in accordance with law.

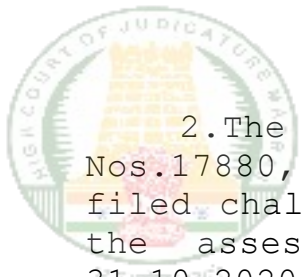
For Petitioner : Mr.M.Natarajan

For Respondent : Mr.M.Prakash

Additional Government Pleader

ORDER

The petitioner has filed this writ petition for a Certiorarified Mandamus to call for the records relating to the impugned order passed by the respondent in FORM GST DRC-16 dated 20.11.2021, to quash the same as illegal and to direct the respondent to obey the order of this Court passed in C.M.P.(MD). Nos.7812 to 7814 of 2021 in W.A.(MD).Nos.691 to 693 of 2021 dated 24.11.2021, by considering the petitioner's representation dated 16.12.2021.



2.The petitioner had earlier filed writ petitions in W.P.(MD) Nos.17880, 17885 and 17886 of 2020. The said writ petitions were filed challenging the order passed by the respondent therein for the assessment years 2017-2018, 2018-2019 and 2019-2020 on 31.10.2020. After discussing the case on merits, the learned single Judge of this Court directed the petitioner therein to pay a sum of Rs.3,00,000/- each in respect of each of the impugned assessment orders on or before 05.01.2021 and on such payment, the impugned orders were deemed to have been quashed and the matter was remitted back to the respondent therein to pass fresh orders on merits and in accordance with law after giving an opportunity to the petitioner to raise objections and after granting personal hearing within a period of 12 weeks from the date of payment of the conditional amount imposed under the impugned orders therein.

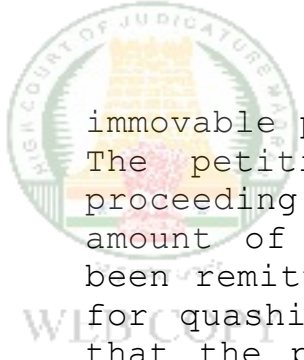
3.Instead of complying with the aforesaid orders, the petitioner took a chance before the Division Bench of this Court in W.A.(MD) Nos.691 to 693 of 2020, which came to be dismissed by an order dated 25.03.2021. Since the petitioner was unable to comply with the orders, the petitioner approached the Division Bench of this Court by filing C.M.P.(MD) No.7812 to 7814 of 2021 in the aforementioned writ appeals.

4.The said miscellaneous petitions were disposed of by a common order dated 24.11.2021 by observing that it was open for the petitioner to go before the authorities as the learned single Judge has remanded the matter back to the respondent therein and that the order of the learned single Judge has been confirmed by the Division Bench on the earlier occasion 25.03.2021.

5.It is the case of the petitioner that despite the aforesaid order, the respondent had proceeded to issue the notice for attachment and for sale of the immovable property under Section 79 of the GST Act, 2017 in Form GST DRC -16 by attaching various properties in this schedule to the said notice. The petitioner has also replied to the same on 16.12.2021 and 20.01.2022.

6.It is the further case of the petitioner that despite the petitioner having replied, the respondent has issued yet another notice on 14.02.2022 and has also attached the bank accounts of the petitioner. The petitioner was directed to appear before the respondent for a personal hearing on 25.02.2022. However, it appears that the petitioner has not appeared. The grievance of the petitioner now is that there should be a stay of Form GST DRC-16 dated 20.11.2021.

7.The present writ petition challenging the Form GST DRC-16 is belated and therefore, the writ petition is liable to be dismissed. Since apart, in Form GST DRC-16 merely attaches



immovable properties. There is no attachment of any bank accounts. The petitioner appears to be interested in dragging on the proceeding though the petitioner appears to be in arrears of huge amount of tax for these assessment years. Since the matter has been remitted back, it is not open for the petitioner to now seek for quashing of the Form GST DRC-16. It is sufficient to state that the petitioner should participate in the proceedings before the respondent in terms of the notice dated 14.02.2022.

8.Considering the above, the respondent is directed to proceed further in terms of notice dated 14.02.2022 and bring a closure to the issue one way or the other in terms of the order of the learned single Judge as affirmed by the Division Bench of this Court within a period of 3 months from the date of receipt of a copy of this order. All further proceedings regarding the sale of immovable property or attachment of the bank accounts of the petitioner will be subject to the final outcome of the proceedings contemplated in the notice dated 14.02.2022.

9.The writ petition stands disposed of, in terms of the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To

The State Tax Officer (Adjudication),
(Intelligence Wing),
Tirunelveli.

+1 CC to M/s.SPL.GOVERNMENT PLEADER
(SR-21474[F] dated 26/04/2022)

+1 CC to M/s.M.NATARAJAN, Advocate
(SR-20989[F] dated 25/04/2022)

W.P. (MD) No.7880 of 2022
and
W.M.P. (MD) Nos.5920 to
5922 of 2022
25.04.2022

SP/11/05/2022/3P/4C