BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.15810 of 2023

S.Vanniaperumal .. Petitioner

Vs.

The State Tax Officer,
Full Additional Charge,
Office of the Deputy Commissioner No.3,
Virudhunagar Town,
Virudhunagar Taluk & District. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondent to consider the representation of the petitioner dated 24.04.2023 by the respondent herein.

For Petitioner	:	Mr.G.Dhanalakshmi
For Respondent	:	Mr.T.Amjadkhan Government Advocate

ORDER

This writ petition has been filed for the issue of a Mandamus to direct the respondent to consider the petitioner's representation dated 24.04.2023.

2. The petitioner would seek the relief of mandamus on the ground that he has suddenly been served with the notice dated 19.08.2022 informing him that his property is sought to be brought to sale for the alleged non-payment of commercial tax. He would plead ignorance about any earlier proceedings.

3. When the matter came up, Mr.T.Amjadkhan, learned Government Advocate appearing for the respondent would submit that a communication had been issued even as early as on 12.11.2021, where the details of the demand for the commercial tax payable by the petitioner for his firm SVS & Co., had been set out, which was also a show cause notice issued informing them about the attachment. It is also stated that if the amounts were not paid, the property would be brought to

sale. This letter has been served on the petitioner on 03.12.2021. The acknowledgment card has been filed which was received by the petitioner. No action has been taken by the petitioner either to challenge the attachment order or to make the payment. Thereafter, nearly a year later, the property was brought to sale and the auction notice dated 29.08.2022 was issued stating that the sale was proposed to be conducted on 12.10.2022. This notice was also served on the petitioner on 01.09.2022 and received by him. To this, a reply was issued stating that there is no amount due from the petitioner. The reply dated 09.09.2022 did not contain any other details. In the reply notice, the petitioner would further submit that it was not stated by the respondent as to the period for which the demand is made. The petitioner does not refer to Form-V issued by the respondent on 12.11.2021. Ultimately, on 10.10.2022, the explanation offered was rejected and communicated to the petitioner which communication was received by the petitioner on 12.10.2022. Thereafter, by letter dated 24.04.2023, the petitioner has addressed the respondent asking him to produce the documents and the other notices regarding the outstanding of the commercial tax.

4. These communications would clearly show that the petitioner was put on notice at each stage and he has not chosen to contest the demand and even his reply to the Form-VII-A auction notice is rather sketchy.

5. The primary ground on which the petitioner has filed this writ petition seeking mandamus is to consider his representation dated 24.04.2023, which is a representation to provide him with the details. The letter dated 10.10.2022 would show that the property has been attached and brought to sale. However, the records do not show that the property in question has been sold. Considering the events that had transpired before the property was brought to sale, the relief claimed herein cannot be granted. Accordingly, this Writ Petition is dismissed. However, it is open to the petitioner to challenge the auction notice of the respondent. No costs.

30.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
abr

To

The State Tax Officer,
Full Additional Charge,
Office of the Deputy Commissioner No.3,
Virudhunagar Town,
Virudhunagar Taluk & District.

P.T.ASHA, J.

abr

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Dated: 30.06.2023