BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2023

CORAM

THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN

W.A.(MD).No.885 of 2016
and
C.M.P.(MD).No.5341 of 2016

V.Chinnaiah .. Appellant/Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Commercial Taxes and
Registration Department,
Fort St.George,
Chennai – 600 009.

2.The Commercial Tax Officer,
Manapparai,
Trichirappalli District. ..Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by the learned Judge dated 09.02.2016 and made in W.P.(MD).No.13667 of 2013 and allow the Writ Appeal.

For Appellant : Mr.A.S.Mujibur Rahman

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by ***V.LAKSHMINARAYANAN,J.***)

The Writ Appeal has been filed challenging the order passed in W.P.(MD).No.13667 of 2013 dated 09.02.2016.

2. The appellant availed deferral scheme under the Sales Tax Act. As per the deferral scheme, the arrears that he was liable to pay was Rs.3,80,154/-. In addition, the Assessing Officer, in exercise of the powers vested in him under the best assessment judgment, imposed Rs.3,84,045/-. The appellant sought for the benefit of the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011. In terms of the said Act, the appellant ought to have paid 100% of the tax admitted together with 40% of the arrears at the rate of 7.5% per annum. This worked out as Rs.7,64,199/-.

3. The appellant approached this Court by way of Writ Petition and obtained an interim stay with a conditional order to pay Rs.3,00,000/-. Out of the said amount of Rs.3,00,000/-, the appellant paid a sum of

Rs.1,00,000/- on 18.09.2013. For the remaining sums, the time period granted by this Court lapsed on 03.10.2013. The petitioner did not comply with the later portion. In other words, the petitioner, who obtained an interim order in W.P.(MD).No.13667 of 2013, did not comply with the same.

4. It is on record that the petitioner did not pay 100% of the admitted tax and 40% of the arrears, as per the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2011. When there are arrears of tax, the authorities are entitled to proceed to recover the amount in terms of the Revenue Recovery Act. That is what has been done in the present case. The learned counsel for the appellant states that his client has paid Rs.3,00,000/- and therefore, we should show some indulgence.

5. In the present case, the arrears commenced from the assessment year 1994-1995 and ended in 2000-2001. For merely a period of 28 years, the appellant has successfully dodged in retaining the funds of the State with himself, apart from the fact that he has not availed the benefit of the orders granted by this Court. As already pointed out, when arrears are payable, the authorities are empowered under the Act to proceed to sell the

property by invoking the provisions of Revenue Recovery Act. If the Writ Petition is allowed, it will amount to interfering with the statutory powers exercised by the taxation authorities. Since the appellant is a tax dodger, we are not inclined to exercise a discretion in his favour. The learned Single Judge has recorded these facts and has dismissed the Writ Petition. We do not find any necessity to interfere with the said order.

6. Accordingly, the Writ Appeal stands dismissed. The authorities are at liberty to proceed against the property of the petitioner in accordance with law. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (V.L.N.,J.)
06.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes and
Registration Department,
Fort St.George,
Chennai – 600 009.

2.The Commercial Tax Officer,
Manapparai,
Trichirappalli District.

S.M.SUBRAMANIAM,J.
and
V.LAKSHMINARAYANAN,J.

Lm

W.A.(MD).No.885 of 2016

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