IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM :

THE HON'BLE **MR JUSTICE C. SARAVANAN**

W.P.No.2983 of 2022
and
W.M.P.No.3156 of 2022

Tvl.B.S.Harish Babu
66/10-3, Balaji Nagar, 2nd Cross,
R.S.Road, Hosur
Krishnagiri – 635 109 ... Petitioner

Vs.

1.The Assistant Commissioner (CT) (FAC)
Hosur (South),
Hosur – 635 109.

2.Tvl.K.Sekar
Proprietor, Sakthi Enterprises,
Bose Bazzaar, Hosur ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, inter alia, calling for the records leading to the issuance of Na.Ka.2160/2006/A3 dated 04.04.2017 issued by the 1st respondent and the consequent attachment and tender notices vide Na.Ka.474/2020/A3 dated 01.12.2021 and quash the same and direct the First Respondent herein to release the attachment made upon petitioner scheduled property to recover the tax dues of the Second Respondent herein.

For Petitioner	:	Mr.Vaidya Reddy for Mr.Adithya Reddy
For Respondents	:	
For R1		Mr.V.Prashanth Kiran Government Advocate

ORDER

Heard Mr.Vaidya Reddy, learned counsel for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate for the 1st respondent.

2. In this writ petition the petitioner has challenged the impugned proceedings of the 1st respondent dated **04.04.2017**, bearing reference Na.Ka.2160/2006/A3 and consequential attachments/tender notices dated **01.12.2021** bearing reference Na.Ka.474/2020/A3.

3. The petitioner appears to have executed a bond in favour of the Commercial Tax Department in 1998 i.e., on **09.05.1998**, when the 2nd respondent had sought to obtain registration as a dealer under the provisions of **Tamil Nadu Goods and Services Tax Act, 1959**. As per the bond in form XIX-B signed under sub-**Rule 15 (3)** of **Rule 24** of **Tamil Nadu Goods and Services Tax Act, 1959,** the petitioner himself is bound to secure the interest of the Commercial Tax Department to the extent of Rs.25,000/-.

4. It appears that the second respondent has committed default and hence therefore, is an assessee in default and therefore, the 1st respondent, the Commercial Tax Department has sought to enforce and recover the same from the petitioner. The petitioner submits that the petitioner is not liable to pay the aforesaid sum of Rs.25,000/- as the petitioner has paid the aforesaid sum on **18.11.1999**. A reference is made to the receipt issued by the Sales Tax Collection Inspector, Hosur.

5. I have perused the documents filed in support of the present writ petition including the aforesaid receipt refers to tax for the Month of April, 1999.

6. It is unlikely that the aforesaid sum of Rs.25,000/- would have been paid with respect of alleged due of the 2nd respondent for the period during which the 2nd respondent was not in arrears of tax. The demand, if any, would have arisen only on account of the assessment orders passed against the 2nd respondent on account of the default committed by the 2nd respondent.

7. The payment receipts dated **18.11.1999** is confined to the tax due of the 2nd respondent for the month of April 1999 and therefore the said payment cannot be construed as discharge of the Sales Tax Liability of the 2nd respondent for the period during which the 2nd respondent was in arrears. Therefore, there is no merits in the writ petition. Therefore, the Court is inclined to direct the petitioner to pay a sum of Rs.25,000/- to the credit of the 1st respondent within a period of thirty (30) days subject to the payment of the aforesaid amount, the impugned recovery proceedings shall stand vacated.

8. With the above direction, this writ petition stands allowed. No costs. Connected writ miscellaneous petition is closed.

05.12.2024

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case: Yes/No

nst

To:
The Assistant Commissioner (CT) (FAC)
Hosur (South),
Hosur – 635 109.

C.SARAVANAN, J.

nst

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