BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.8448 of 2024
and
W.M.P.(MD) No.7652 of 2024

M/s.Universal Poly Bags Industries (P) Ltd.,
represented by its Managing Director, T.Muralitharan,
7/152, Perali Road,
Virudhunagar. ... Petitioner

/vs./

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

2.The State Tax Officer -1,
Virudhunagar.

3.The Manager,
HDFC Bank,
Virudhunagar Branch,
Virudhunagar. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records relating to the 3rd respondent Notice dated 16.02.2024 quash the same and to direct the 2nd respondent not take any coercive action against petitioner till the pending disposal of the above writ petition.

For Petitioner : Mr.A.S.Mujibur Rahman

For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.A.S.Mujibur Rahman, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents 1 and 2.

2.The petitioner has challenged the impugned notice issued by the third respondent Bank attaching a sum of Rs.3,51,545.69/- available in the petitioner's current Ac.No.57500001212290 maintained by the petitioner with the third respondent Bank. The petitioner has earlier suffered an adverse assessment order on the entry tax payable by the petitioner for the assessment years 2002-2003 to 2004-2005 as early as on 26.12.2020. The petitioner claims to have received the aforesaid order on 03.02.2021 and has thus challenged the correctness of the said order in W.P.Nos.10218, 10221 and 10223 of 2021. It is submitted that al though the petitioner has not secured any interim orders from this Court, the issue, according to the petitioner, has been partly answered by the Hon'ble Supreme Court in J***indal Stainless Steel Ltd Vs. Union of India*** reported in ***2017 (12) SCC 1***, wherein the Hon'ble Supreme Court has upheld the validity of the entry tax, but however did not deal with the issue arising out the discriminatory levy of entry tax and the same has been left to be examined by the appropriate Bench hearing the matters after the reference was answered.

3.It is therefore submitted that the issue is pending before the Division Bench of this Court in WP.Nos.8109 and 8110 of 2015 in *Tvl.T.V.Sundaram Iyengar and son's case*. It is submitted that the attachment of the petitioner's bank account without notice to the petitioner during the pendency of the aforesaid writ petitions in W.P.Nos.10218, 10221 and 10223 of 2021 is unwarranted and unjustified. It is further submitted that under similar circumstances, a Division Bench of this Court in W.A.(MD) No.964 of 2021, vide its judgment dated 13.06.2021 has granted the relief to the petitioner therein.

4.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 1 and 2.

5.The demand pertains to the levy of entry tax for the assessment years 2002-2003 to 2004-2005, vide order dated 26.12.2020, which is now the subject matter of W.P.Nos.10218, 10221 and 10223 of 2021. Al though the petitioner has not secured any interim orders, the respondents ought not to have hurried in attaching the bank account, particularly in the light of the fact that the petitioner has challenged the correctness of the order passed for the aforesaid assessment years on 26.12.2020 in the above mentioned writ petitions.

6.Be that as it may, this Court is of the view that to balance the interest of the parties, the respondents are permitted to appropriate 10% of the tax liability confirmed vide assessment order dated 26.12.2020 out of the amount ie., lying in balance with the third respondent Bank as on date and release the balance amount as it would otherwise hamper in the day-to-day business of the petitioner. Call for further recovery proceeding shall be subject to the final outcome of the writ petitions filed by the petitioner in W.P.Nos.10218, 10221 and 10223 of 2021 impugning levy of entry tax for the assessment years 2002-2003 to 2004-2005 vide order dated 26.12.2020.

7.Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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03.04.2024

To

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai 600 009.

2.The State Tax Officer -1,
Virudhunagar.

C.SARAVANAN, J.

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W.P.(MD) No.8448 of 2024

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