BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**
**AND**
**THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

W.A.(MD).Nos.883 and 884 of 2016
and
C.M.P.(MD).Nos.5337 and 5338 of 2016

**W.A.(MD).No.883 of 2016**

Pearl Chlorates Pvt Ltd.,
Represented by its Chairman and Director,
N.Rajamanickam. .. Appellant/Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Industries,
Fort St.George,
Chennai - 600 009.

2.The General Manager,
District Industries Centre,
Tuticorin - 8.

3.The Joint Commissioner (CT),
C.T. Building, Reserve Line Road,
Palayamkottai,
Tirunelveli.

4.The Assistant Commissioner (CT),
Tuticorin.

5.The Commercial Tax Officer - I,
Kovilpatti. .. Respondents/Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the Writ Appeal by setting aside the order passed by the learned Judge dated 24.03.2016 and made in W.P.(MD).No.5124 of 2012.

**W.A.(MD).No.884 of 2016**

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N.Rajamanickam. .. Appellant/Petitioner

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**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the Writ Appeal by setting aside the order passed by the learned Judge dated 24.03.2016 and made in W.P.(MD).No.7923 of 2013.

For Appellant : Mr.K.Vadivel
for Mr.Mujibur Rahman

For Respondents : Mr.A.K.Manikkam
Special Government Pleader
(In both Writ Appeals)

**COMMON JUDGMENT**

**DR.G.JAYACHANDRAN,J.**
**and**
**C.KUMARAPPAN,J.**

The present Writ Appeals are filed by the private party aggrieved by the common order passed by the learned Single Judge in W.P.(MD). Nos.5124 of 2012 and 7923 of 2013 dated 24.03.2016.

2. The point canvassed before the Division Bench is that as a trader, the appellant was assessed to tax under the IFST Act and to pay a sum of Rs.31,54,238/-. Having failed to pay the said tax, attachment order was passed. The same was challenged by the appellant/writ petitioner in W.P.(MD).No.5124 of 2012 and an application was filed seeking stay of the recovery proceedings. The appellant/writ petitioner submitted that he will opt for Samadhan Scheme and ready to deposit 40% of the arrears. This Court, taking note of the said submission, granted interim stay of recovery proceedings on condition to pay 40% of the tax assessed by the appellant/writ petitioner, which is around Rs.12,61,695/- within the period prescribed, failing which, the interim stay granted shall automatically be vacated. Though the appellant/writ petitioner availed the protection of stay, he had not complied with the said condition. He has paid only Rs.4,30,000/- instead of Rs.12,61,695/-. Therefore, the authority has passed the subsequent attachment order, which is the subject matter of another Writ Petition in W.P.(MD).No.7923 of 2013.

3. The interim order was granted on 18.04.2012 when the Writ Petition was taken up for admission. But, when the matter was taken up for final disposal after four years on 24.03.2016, it was brought to the notice of the Court that the conditional order was not complied by the appellant/writ petitioner. Hence, the Department has proceeded with auction and third party interest has come into play. Recording the same, the learned Single Judge had dismissed the Writ Petitions by stating that the appellant/writ petitioner has not obeyed the conditional order passed by the Court and having not opted for the Samadhan Scheme by paying the 40% of the tax assessed, the appellant/writ petitioner cannot seek remedy under Article 226 of the Constitution of India.

4. Against the dismissal of the Writ Petitions, the present Writ Appeals are filed in the year 2016 and the matter is taken up for final disposal today, i.e., 11.01.2024. Till date, the appellant has not shown any interest to avail the Samadhan Scheme by complying with the order or has not established his bonafide to settle the dispute under the Samadhan Scheme. This Court cannot be a tool to delay the tax recovery process or

protect the interest of the person, who is not interested in complying with the conditional order passed by this Court, but only to save his property by hook or crook.

5. The learned counsel appearing for the appellant has filed a memo stating that the learned Senior Counsel on record for the appellant died and the letter sent to the party returned stating that the Chairman and Director of the appellant Company, by name, N.Rajamanickam died. The death of the appellant shall have no impediment for disposing the Writ Appeals on merits. Hence, the Writ Appeals are dismissed as devoid of merits. Any other right of the appellant in respect of assessment or sale of his property attached has to be worked out in the manner known to law. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**(G.J.,J.) (C.K.,J.)**
**11.01.2024**

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

To

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