(2006) 01 MAD CK 0145

In the Madras High Court

Case No : Writ Petition No. 1178 of 2006 and W.P.M.P. No''s. 1304 and 1305 of 2006

Karuna Elastics APPELLANT

Vs

Commercial Tax Officer and Another RESPONDENT

Date of Decision : 21-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0145

Hon'ble Judges : C. Nagappan, J

Bench : Single Bench

Advocate : K.J. Chandran, for the Appellant; S. Manoharan Sundaram, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

C. Nagappan, J.—Petitioner has sought for the issuance of a writ of certiorari to quash B6 notice dated November 14, 2005 issued by the first respondent to the petitioner.

2. The petitioner has stated that it is a partnership firm consisting of two partners, viz., Manoharan and Mangaiyarkarasi and Manoharan is also carrying on another partnership business with others in the name and style of M/s. C.M.R. Knitwear, Tirupur, which is also a registered dealer on the file of the first respondent and that partnership firm has become defunct and demand is raised for the arrears of sales tax insofar as that firm is concerned and the first respondent issued B6 notice dated November 14, 2005 attaching the bank account of the petitioner with the second respondent for the arrears of M/s. C.M.R. Knitwear, Tirupur. The petitioner has further stated that the petitioner-firm and M/s. C.M.R. Knitwear are two different separate legal entities and there is no provision in the Tamil Nadu General Sales Tax Act, which authorises the first respondent to recover the arrears of sales tax of one partnership from another partnership firm and hence, the impugned B6 notice is liable to be quashed and the attachment of bank account has to be lifted.

3. Mr. S. Manoharan Sundaram, learned Government Advocate took notice for the first respondent and by consent of counsel on both sides, the writ petition is taken up for disposal. Learned Counsel for the petitioner has also made an endorsement that he is giving up the second respondent, which is a formal party.

4. Heard both sides. Admittedly, the first respondent is taking proceedings for collection of arrears of sales tax from M/s. C.M.R. Knitwear and the petitioner-firm has no connection with it and both the firms are separate legal entities. Learned Government Advocate fairly admits that the bank account of the petitioner-firm cannot be attached for the liability of M/s. C.M.R. Knitwear to pay the arrears of sales tax. Hence, the impugned B6 notice dated November 14, 2005 is liable to be quashed and the attachment of bank account of the petitioner has to be lifted. The petitioner is entitled to the prayer sought for in the writ petition.

5. The writ petition is allowed and B6 notice dated November 14, 2005 issued by the first respondent is quashed and the attachment of bank account of the petitioner with the second respondent is ordered to be lifted with immediate effect. No costs. Consequently, connected W.P.M.Ps are closed.