

(1985) 09 MAD CK 0007

In the Madras High Court

Case No : Writ Petition No's. 9599 to 9601 of 1985

R.M. Appavu Chettiar and Sons

APPELLANT

Vs

Appellate Assistant Commissioner (Ct) and Another

RESPONDENT

Date of Decision : 02-09-1985

Acts Referred:

Citation : (1987) 66 STC 273

Hon'ble Judges : Nainar Sundaram, J

Bench : Single Bench

Advocate : R.V. Venkataraman, for the Appellant; K.S. Bakthavatsalam, Additional Government Pleader, for the Respondent

Judgement

Nainar Sundaram, J.—The petitioner has suffered regular orders of assessment. The petitioner has preferred appeals and pending appeals,

he sought order of stay. The first respondent declined to grant the stay asked for and has directed the payment of the disputed amounts in ten

monthly instalments. These orders are being challenged in the present writ petitions. I am told that security in the shape of immovable properties for

the entirety of the disputed amounts has been furnished by the petitioner. It is not claimed that the security furnished is not acceptable and

adequate. After adverting to the concerned statutory provisions, the first respondent says that absolute stay cannot be granted and considering the

huge amount of arrears, payment of disputed amounts in instalments could be permitted. These reasonings ignore the principles enunciated by this

Court on the question of stay. That there was no proper exercise of discretion on the question of grant of stay is patent from the orders. I find that

the interest of Revenue stands amply safeguarded by the security in the shape of immovable properties furnished as stated above. Passing of such

oppressive orders has been deprecated by this Court. Yet, I find such orders are being passed by the authorities like the first respondent and it

does not speak well of the department to ignore pronouncements of this Court and go on passing orders which drive parties to come to this Court

seeking redressal and relief in writ powers. I feel obliged to interfere in writ jurisdiction and accordingly, these three writ petitions are allowed, the

orders of the first respondent are quashed and recovery of the disputed amounts shall not be prosecuted during the pendency of the appeals before

the first respondent. It is upto the first respondent to dispose of the appeals with expedition. No costs.

2. Writ petitions allowed.