

GIB/TN/SARASPATHY SUNDARAJ/21.09.2020/HC-205

High Court Category : ATTACHMENT OF PROPERTY

State : Tamil Nadu

Order No.: GIB/TN/SARASPATHY SUNDARAJ/21.09.2020/HC-205

Name of Entry :
SARASPATHY SUNDARAJ

Date : 21-09-2020

Breif Issue :

FACT AND ISSUE OF THE CASE:

In this case petitioner is a bona fide purchaser, who had purchased the property prior to the encumbrance being created and therefore is entitled to protection from the charge created over the subject property.

Decision of Advance Ruling Authority :

DECISION:

Under Section 24 of the TNGST Act, the arrears of the tax will become immediately due on default of the outstanding taxes and consequently, a charge would be created on the properties of the person liable to pay the tax or the interest. Section 24-A of the TNGST Act provides that all charges or transfers made by the dealer during the pendency of any proceedings under the Act, shall be void. The intention to defraud the revenue requires to be derived from the manner in which the defaulter transfers the title of the property. When the transfer of title of the property is made within a reasonably short period from the knowledge of the tax arrears or whenever such a transfer of title is done among the family members of the defaulter, there can be a strong presumption that such transfer has been made to defraud the revenue.

Since the defaulter had transferred the property in favour of his brother's wife, by appointing his own brother as the Power Agent to act on his behalf and such a sale has happened within six months from the date of which the demand of arrears of tax was made, it can be said there are no bona fides in such a transfer. Accordingly, in view of Section 24-A of the TNGST Act, the transfer itself is deemed to be void - the department may be entitled to recover the sales tax arrears of the later dealer, namely Thiru.T.C.Wilson, by enforcing the charge against the subject property in the manner provided under the Act.

The respondents 1 and 2 are at liberty to enforce the charge over the subject property for

recovery of the arrears of tax due from the assessee, namely Thiru.T.C.Wilson (late), proprietor of M/s.New Nelson Watch Company, in a manner known to law - Petition dismissed.