IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM :

THE HON'BLE MR. JUSTICE R.MAHADEVAN

Writ Petition Nos: 24133 & 24134 of 2015

Navodaya Mass Entertainments Ltd.,
rep. by its Joint Managing Director
Mr.Jose Punnoose ... Petitioner in both the W.Ps.

Vs

1. State of Tamil Nadu
   rep. by its Special Commissioner,
   Commercial Taxes Department,
   Fort St. George,
   Chennai 600 009.

2. The Entertainment Tax Officer,
   Thirumdovakkam Assessment Circle,
   Plot No.22 & 23, Sripuram 2nd Street,
   Chennai 600 044.

... Respondents in both the W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records of the second respondent in its order for assessment No.P./F./1/2000-01 & 2001-02 dated 10.06.2015 and quash the same.

For petitioner in both W.Ps. : M/s. P.R.Raman

For respondents in both W.Ps. : Mr.S.Kanmani Annamalai, Additional Government Pleader(T)



COMMON ORDER

Heard the learned counsel for the petitioner and Mr.Kanmannai Annamalai, learned Additional Government Pleader (T) who took notice for the respondents.

2. These writ petitions have been filed by the petitioner challenging the impugned orders dated 10.06.2015, passed by the respondent herein, under the Tamil Nadu Entertainment Tax Act.

3. This the third round of litigation. Initially, challenge to the amendment under Section 2A of the Act was negatived in a batch of writ petitions, thereby 20% tax was leviable on the admission fee collected by Amusement Parks like that of the petitioners. Subsequently, the respondent was directed to determine the turn over for all the assessment years along with the proposal to levy penalty under Section VII(b) of the Act and the petitioner was also permitted to submit objections, which they filed on 08.10.2007. But the Assessing authority, against whom the directions were issued without considering the objections and on non-application of mind, had passed the order dated 26.11.2007 and the same was set aside by this Court by an order dated 25.11.2014 with the following directions:

> " It is seen that prior to the passing the impugned orders, notices were issued to the petitioner. Copies of those notices have been enclosed in the typed set of papers, from which, it is seen that the said notices are also defective, in asmuch as it does not give any particulars except to say that as per the orders of this Court dated 25.04.2007 in WA.No.294/2002, it is proposed to determine the turnover for the relevant years. It is again a gross error committed by the second respondent, thus, the very initiation of the proceedings itself is vitiated on account of total non-application of mind.
>
> 6. In the result, the writ petitions are allowed and the impugned orders as well as the pre-assessment notices are quashed. No costs. However, liberty is granted to the 2nd respondent to proceed further in accordance with law. Consequently, connected miscellaneous petitions are closed."

4. Thereafter, a notice dated 14.05.2015 was issued for which the petitioner failed to file objections. Hence, the matter was taken for passing orders and accordingly, an order of assessment was passed on 10.06.2015 wherein, the earlier order passed by this Court on 25.11.2014 had not been taken into consideration. Further, in the Form VII(B), which relates to final assessment and demand enclosed along with impugned order, absolutely a different subject matter which has no interconnection to the petitioner's issue has been specified, which reads as follows:

> " Please take notice that you have been finally assessed under the Tamil Nadu Entertainments Tax Act, 1939, on a total collection

of RS.2,43,70,850.00 (Rupees Two Crores Forty Three Lakhs Seventy Thousand Eight Hundred and Fifty Only) for the year ending 31st March 2002 for the entertainment of television exhibition/amusement (Recreation Parlour) direct to home service/any cricket tournament conducted by Indian Premier League (or the Champions League Twenty 20 cricket tournament conducted by Indian Premier League (or the Champions League twenty 20 cricket tournament conducted by the Board of Control for Cricket in India) provided by you. The amount of tax payable by you at 20 percent is Rs.48,74,170.00 (Rupees Forty Eight Lakhs Seventy Four Thousand One Hundred and Seventy Only)"

The above shows again the non application of mind by the assessing officer/second respondent, who passed the order in a slipshot manner.

5. Hence, the impugned order passed by the respondents are set aside and the matter is remitted back for fresh consideration. The petitioner is directed to appear before the second respondent within two weeks from the date of receipt of a copy of this order along with all the documentary evidences and objections if any. After perusal of the documentary evidences as well as the objections, the second respondent shall pass appropriate orders, within a period of four weeks thereafter. If the petitioner fails to appear, the respondent should pass appropriate orders on merits and in accordance with law, without causing further delay since the assessments are of the years 2000-01 and 2001-02.

6. These writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To,

1. The Special Commissioner,
   State of Tamil Nadu
   Commercial Taxes Department,
   Fort St. George,
   Chennai 600 009.

2. The Entertainment Tax Officer,
   Thirumdovakkam Assessment Circle,
   Plot No.22 & 23, Sripuram 2nd Street,
   Chennai 600 044.

+2cc's to Mr.P.R.Raman, Advocate, S.R.No.42269 & 42270
+1cc to the Government Pleader, S.R.No.42354

W.P. Nos. 24133 & 24134 of 2015

GJ(CO)
CA(24/09/2015)