

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.28865 and 28206 to 28211 of 2015

W.P.No.28865 of 2015

Madanlal B.Chowatia

...Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.
2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.
3. The Income Tax Officer,
Non Corporate Circle,
Ward 5(1),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

...Respondents

Prayer in W.P.No.28865 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

W.P.No.28206 of 2015

Aruna C.Chowatia

...Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.

2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.

3. The Income Tax Officer,
Non Corporate Circle,
Ward 4(3),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

....Respondents

Prayer in W.P.No.28206 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

W.P.No.28207 of 2015

Ashok Kumar B.Chowatia

....Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.

2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.

3. The Income Tax Officer,
Non Corporate Circle,
Ward 4(1),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

....Respondents

Prayer in W.P.No.28207 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

W.P.No.28208 of 2015

Babulal L.Shah

... Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.
2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.
3. The Income Tax Officer,
Non Corporate Circle,
Ward 5(1),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

...Respondents

Prayer in W.P.No.28208 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

W.P.No.28209 of 2015

Chandenben

...Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.

2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.

3. The Income Tax Officer,
Non Corporate Circle,
Ward 4(3),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

...Respondents

Prayer in W.P.No.28209 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

W.P.No.28210 of 2015

Naina A.Chowatia

...Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.

2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.

3. The Income Tax Officer,
Non Corporate Circle,
Ward 5(2),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

...Respondents

Prayer in W.P.No.28210 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years

2011-12, 2012-13 and 2013-14.

W.P.No.28211 of 2015

Nirmala Bai

...Petitioner

-Versus-

1. The Joint Commissioner of Income Tax (TDS),
TDS Cell, Range-I,
121, M.G.Road, Nungambakkam,
Chennai 600 034.

2. Influence Enterprises (India) Pvt. Ltd.,
No.3, Blackers Road, 4th Floor,
Near Casino Theatre,
Anna Salai, Chennai 600 002.

3. The Income Tax Officer,
Non Corporate Circle,
Ward 5(2),
Kannammai Building,
611, Anna Salai,
Chennai 600006.

...Respondents

Prayer in W.P.No.28211 of 2015:- Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14.

For Petitioner(s) : Mr.T.V.Lakshmanan for
petitioner in all Writ
Petitions

For Respondent(s) : Mr.T.Pramodkumar Chopda
Senior Standing Counsel for
Respondents R1 & 3

COMMON ORDER

Seeking for mandamus directing the 2nd respondent to issue TDS certificate for the tax deducted at source while paying the rent under The Income Tax Act, 1961 for the years 2011-12, 2012-13 and 2013-14, petitioners have individually

come forward with these writ petitions.

2. Heard both sides and also perused the records carefully.

3. When this court posed a query to the learned counsel for the petitioner as to how the writ petitions could be maintained as against the 2nd respondent, who is an individual/private company and against whom the relief is sought for, the learned counsel for the petitioners is not in a position to answer to the same. The learned counsel for the petitioner would, however, submit that the 2nd respondent company though deducted TDS from the amount payable to the respective petitioner, failed to remit the same and the 2nd respondent is, therefore, liable for penal action under the provisions of the Income Tax Act, 1956. Eventually, the learned counsel would concede that the writ petitions may be dismissed observing the right of the petitioners to have the particulars of TDS amount from the 2nd respondent and the right of the IT Department to take action as against the 2nd respondent for the failure to remit the TDS.

4. Having regard to the facts and circumstances of the case, this court is of the view that the prayer sought for in the writ petitions cannot be granted. However, it is always open to the respective petitioner to approach the 2nd respondent for necessary particulars and if any deductions are made, the same can be ascertained from the 2nd respondent by the respective petitioner. After deduction of tax at source, if the 2nd respondent failed to remit the same, it is always open to the IT Department, to take appropriate penal action for such failure on the part of the 2nd respondent in remitting the TDS from the rent payable to the respective petitioner. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kmk

To

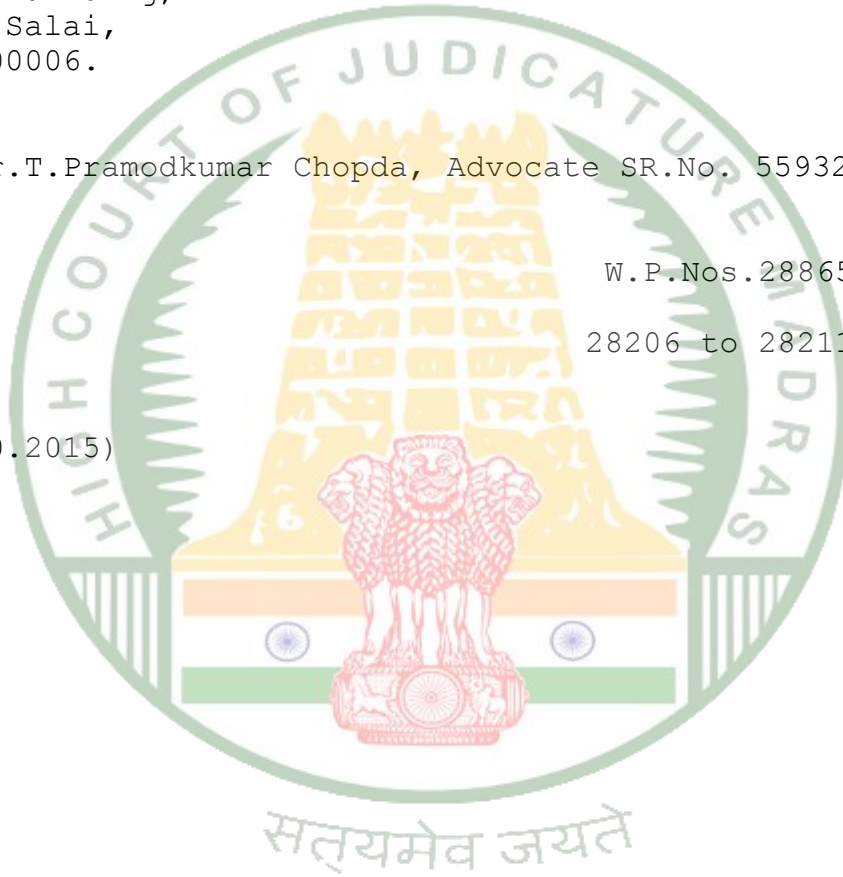
1.The Joint Commissioner of Income Tax (TDS),
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Chennai 600006.

1 CC to Mr.T.Pramodkumar Chopda, Advocate SR.No. 55932

W.P.Nos.28865 of 2015
and
28206 to 28211 of 2015

KM (CO)
PSI (28.10.2015)



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