IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :15.09.2015

Delivered on : 30.09.2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.29030 of 2015
and M.P.Nos.1 and 2 of 2015

N.Saravanakumar .. Petitioner

Vs.

1.The Government of Tamil Nadu
Rep. By its Secretary,
Commercial Taxes and Registration Department,
Fort St.George,
Chennai-600 009.

2.The Principal Secretary/Commissioner of
Commercial Taxes,
O/o The Commissioner of Commercial Taxes,
Ezhilagam, Chennai-5.

3.Mr.N.Viswanathan,
Assistant Commissioner, Inspection Cell,
O/o The Commissioner of Commercial Taxes,
Ezhilagam, Chennai-5. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records from the second respondent in connection with the impugned charge memo bearing ref.No.CD2/16647/2014-III dated 30.10.2014 and quash the same.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Krishnamoorthy

For Respondents: Mr.V.Haribabu,
Addl. Govt. Pleader (Taxes)

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner, in the affidavit filed in support of this writ petition, would aver among other things that he was initially recruited as Assistant Commercial Tax Officer in the year 2008 through the Tamil Nadu Public Service Commission [TNPSC] and was promoted to the post of Commercial Tax Officer on 19.07.2012 after

filing W.P.No.19088 of 2012 and subsequently, the petitioner and three others were promoted to the post of Assistant Commissioner by filing W.P.Nos.11129, 11324 and 20336 of 2013 with effect from 20.02.2014. The petitioner made a request to the second respondent to post him in the Assessment Circle. While the petitioner was working as Commercial Tax Officer, Melur Assessment Circle for the period between 30.07.2012 and 31.12.2012, he was visited with disciplinary proceedings in the form of Charge Memo dated 30.10.2014 issued by the second respondent and it is relevant to extract the statement of charges:

"Charge No.1:

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) while holding the post of CTO, Melur during the period from 30.07.2012 to 28.02.2014 had failed to take action relating to arrear collection of Rs.11,22,11,701/- from Tvl.Solaimalai Automobiles (P) Ltd. (TIN:3344941175) under Tamilnadu Revenue Recovery Act, 1864 read with Section 49 of the TNVAT Act, 2006 and Section 5 of Tamil Nadu Tax on Entry Tax on Entry of Motor Vehicles to Local Areas Act, 1990 and thereby caused loss of revenue to the State.

Charge No.2

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period in the aforesaid office had failed to monitor the finalization of the Assessments of Tvl.Solaimalai Automobiles (P) Ltd. (TIN 3344941175) under the TNVAT Act, 2006 and Tamil Nadu Tax on Entry Tax on Entry of Motor Vehicles to Local Areas Act, 1990 for the years 2009-10 to 2012-13.

Charge No.3

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period in the aforesaid office being the custodian of the Public Revenue and incharge of reconciliation for the Assessment circle failed to action under the Negotiable Instruments Act 1881 on the dishonouring of the cheques by Tvl.Solaimalai Automobiles (P) Ltd. (TIN 3344941175) to an amount of Rs.8,25,57,198/- and thereby acted against the interest of Public Revenue.

Charge No.4

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period in the aforesaid office lifted the Form 'U' notice, though the dealer was in arrears of tax for the years 2009-10 to 2012-13 under the TNVAT Act, 2006 and Tamil Nadu Tax on Entry Tax on Entry of Motor Vehicles to Local Areas Act, 1990, with ulterior motive and non-application of mind and thereby acted against the interest of Govt. Revenue.

Charge No.5

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period in the aforesaid office failed to watch the prompt filing of returns by Tvl.Solaimalai Automobiles (P) Ltd. (TIN 3344941175) under Section 21 of the TNVAT Act, 2006 and Section 7 of the Tamil Nadu Tax on Entry Tax on Entry of Motor Vehicles to Local Areas Act, 1990 for the years 2009-10 to 2012-13 and thereby acted against the interest of Public Revenue.

Charge No.6

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period in the aforesaid office failed to levy and collect interest under Section 42(3) of the TNVAT Act, 2006 and Section 15 of the Tamil Nadu Tax on Entry Tax on Entry of Motor Vehicles to Local Areas Act, 1990 for the years 2009-10 to 2012-13 from Tvl.Solaimalai Automobiles (P) Ltd. (TIN 3344941175) for their belated payment of tax dues and thereby caused loss of Revenue of Rs.2,96,15,734/- to the State.

Charge No.7

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) during the aforesaid period has failed to produce true facts to the superiors. As per statistics for the Madurai Division upto August 2014 the revenue involved relating to uncollected dishonoured cheques is Rs.5.10 crore only. Whereas actual revenue involved because of dishonoured cheque relating to Tvl.Solaimalai Automobiles (P) Ltd., alone amounts of Rs.2.96 crores. This discrepancy points out to deliberated intention on the part of Thiru.N.Saravanakumar, Assistant Commissioner (CT) suppress true facts from the superior authorities.

Charge No.8

That Thiru.N.Saravanakumar, Assistant Commissioner (CT) by his aforesaid acts during the aforesaid period in the aforesaid post had failed to maintain absolute integrity and devotion to duty and thereby caused huge loss of revenue to the exchequer and by the above said lapses he has thereby violated Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973.”

3. The petitioner, in response to the charge memo, has submitted a letter dated 03.02.2015 praying for issuance of attested true copy of the documents involved in the charges, as

listed in Annexure-III and the details of charges framed against other delinquents and subsequently, came forward to file this writ petition, challenging the legality of the impugned charge memo.

4. Mr.V.Prakash, learned Senior Counsel appearing for the petitioner would submit that the charge memo has been issued by the second respondent without due and proper application of mind to the materials placed before him and further that the charge memo does not contain the entire details as to under what authority inspection was conducted and the basis of which the impugned charge memo came to be issued. As regards Charge No.1 is concerned, the petitioner sought information under the Right to Information Act and he was furnished with the same and it would disclose that there was no arrears of Rs.11,22,11,701/- as on 31.08.2014 and the predecessor of the petitioner, namely, Thiru.R.Rajasekaran, who served as Commercial Tax Officer in the Melur Assessment Circle, between April 2011 and April 2012 passed assessment orders in respect of M/s.Solaimalai Automobiles (P) Ltd., for the period from April 2006 -2007 and April 2009 to March 2010 and he was allowed to retire peacefully and whereas the petitioner, who was posted in the said Circle for the period between 30.07.2012 and 31.12.2012 for a period of five months, is sought to be proceeded with.

5. The learned Senior Counsel appearing for the petitioner would contend that Charge No.2 pertains to the allegation that the petitioner failed to monitor the finalization of the assessments of the above said Company for the years 2009-10 and 2012-13 and admittedly, the petitioner had worked in the Melur Assessment Circle for a period of five months between 30.07.2012 and 31.12.2012 and that finalization of assessment had become self assessment since 19.06.2012, which is prior to the tenure of the petitioner in Melur Assessment Circle and on account of the introduction of Tamil Nadu Value Added Tax Act and in terms of G.O.Ms.No.83 dated 18.06.2012, finalization of assessment by the Assessing Officer does not arise at all for consideration. As regards Charge No.3 is concerned which pertains to the allegation that the petitioner failed to take action under the Negotiable Instruments Act, 1881 on the dishonour of the cheques by the above said Company aggregating to an amount of Rs.8,25,57,198/-, it is the submission of the learned Senior Counsel appearing for the petitioner that the said charge is very vague and the details of cheques have not been given and even as per Annexure No.III, the dishonoured cheques pertain to the period between 2009 and 2013 and therefore, even prior to the tenure of the petitioner in Melur Assessment Circle, cheques were dishonoured and the officers who were in-charge at the relevant point of time have not been proceeded departmentally and in fact, Thiru.R.Rajasekaran, who was the Commercial Tax Officer of the Melur Assessment Circle, as predecessor to the petitioner, was allowed to retire peacefully also and therefore, the said charge is a very vague one and as per the information obtained under the Right to Information Act, there was no arrears/dues from the said Company and therefore, taking action under the provisions of the Negotiable Instruments Act, 1881 does not arise at all.

6. It is the submission of the learned Senior Counsel appearing for the petitioner that the substratum of Charge No.4 is that the petitioner lifted Form 'U' notice (bank attachment in respect of the above said Company) and the said charge would also indicate non-application of mind on the part of the second respondent for the reason that his own communication was countersigned by the Joint Commissioner and it reads that the said Officer was requested to give suitable instructions to the Commercial Tax Officer, Melur, permitting him to lift Form 'U' Notice, letter prohibiting registration sent to the Regional Transport Officer and the attachment against the vehicles in respect of the above said Company and in the light of the above stand, the auction sale of the properties of the said Company may be deferred till March 2013. The jurisdictional Deputy Commissioner, in-turn, has issued a letter dated 22.01.2013 to the petitioner, communicating the orders of the Joint Commissioner and instructed the petitioner to lift Form 'U' Notice and accordingly, it was lifted on 22.01.2013 and again enforced with effect from 01.04.2013 and the same is still in force. Therefore, the petitioner merely obeyed the orders of the superior officers, for which he cannot be faulted with.

7. The learned Senior Counsel appearing for the petitioner has invited the attention of this Court to Charge No.5 and would submit that the allegation is that the petitioner has failed to watch the prompt filing of returns by the said Company for the years 2009-10 to 2012-13 and thereby acted against the interest of the public and admittedly the petitioner served as the Commercial Tax Officer, Melur Circle between 30.07.2012 and 31.12.2012 for a period of five months and no action has been taken against the officers who had served at the relevant point of time and that apart, the information obtained by the petitioner under the Right to Information Act would also disclose that since July 2012, the returns were filed on time and hence, the said charge is also unsustainable. As regards Charge No.6 that the petitioner failed to levy and collect interest for the years 2009-10 and 2012-13 for the belated payment of tax dues and thereby caused loss of revenue to the tune of Rs.2,96,15,734/-, it is the submission of the learned Senior Counsel appearing for the petitioner that Charge No.6 is vague as it does not disclose the details for which the belated payment of tax and also the details of interest dues not collected by the petitioner and in fact the information obtained through Right to Information Act would also disclose that the petitioner has levied interest for the belated payments of the above said Company, vide notices dated 25.10.2013 and 26.02.2014 and the same has been served on the dealer on 25.10.2013 and 13.03.2014 respectively and further that collection of interest and belated payment of tax is an ongoing process, for which the petitioner has taken necessary steps and the successor to the office of the petitioner can also be proceeded accordingly and therefore, the said charge is unsustainable.

8. As regards Charge No.7 to the effect that the petitioner

has failed to produce true facts to the superiors with regard to dishonoured cheques with deliberate intention, it is the submission of the learned Senior Counsel appearing for the petitioner that hereagain, the said charge is very vague and further the information obtained under Right to Information Act reveals that there was no arrears as on 31.08.2014 and there was no dishonoured cheque to be realized as on that date and therefore, the question of suppressing true and material facts to the superior officers does not arise at all for consideration. It is also the submission of the learned Senior Counsel appearing for the petitioner that Charge No.8 is general in nature, as the allegation is that the petitioner failed to maintain absolute integrity and devotion to duty and violated Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973. It is the submission of the learned Senior Counsel appearing for the petitioner that surprise inspection was conducted by Mr.N.Viswanathan, who has adverse interest against the petitioner and Group-II officers as a class, as W.P.No.9926 of 2015 filed by the petitioner and his batchmates is still pending and it has been tagged along with W.P.Nos.3640/2014, 7858/2015, 7011/2015 and 7857/2015 filed by directly recruited Assistant Commissioners and all the writ petitions are pending and therefore, the said official is having an axe to grind against the petitioner.

9. In sum and substance, it is the submission of the learned Senior Counsel appearing for the petitioner that the charges framed against the petitioner merely pertains to causing loss of revenue to the State and admittedly, the charge memo does not refer to any dishonest/oblique motive, falsification of Government records etc., and therefore, charges under Tamil Nadu Civil Services (Discipline and Appeal) Rules cannot be framed and prays for quashment of the same. The learned Senior Counsel appearing for the petitioner, in support of his submissions, placed reliance upon the order dated 18.01.2010 made in W.P(MD)No.4355 and 4358 of 2009 [Senthurpandian v. The Government of Tamil Nadu and another] and the order dated 20.02.2014 made in W.P.No.17740 of 2012 [J.Jayanthi v. The Secretary to Government, Home (Transport) Dept., Fort St.George, Chennai-9 and others].

10. Per contra, Mr.V.Haribabu, learned Additional Government Pleader (Taxes) would vehemently contend that in Annexure Nos.II and III, the documents based on which charges framed against the petitioner have been given and the points urged by the learned Senior Counsel appearing for the petitioner can be adjudicated/thrashed out only after the conclusion of the enquiry and on the basis of the Enquiry Officer's Report, by the Disciplinary Authority and therefore, this Court may not take cognizance of the merits of the charges framed against the petitioner. It is the further submission of the learned Additional Government Pleader (Taxes) that on account of the delinquency on the part of the petitioner, the State is losing valuable revenue, which in-turn would adversely affect public interest and that the order of transfer passed against the petitioner is also put to challenge in W.P.No.21975/2015 and it was dismissed by this Court,

vide order dated 21.09.2015 and would further submit that appropriate directions may be given to expedite the departmental enquiry and pass final orders and hence, prays for dismissal of this writ petition with costs.

11. This Court paid it's best attention to the rival submissions and also perused the materials placed before it as well as the decisions relied on by the learned Senior Counsel appearing for the petitioner. No counter affidavit has been filed on behalf of the respondents.

12. First and foremost submission made by the learned Senior Counsel appearing for the petitioner is that the charges framed against the petitioner are vague and therefore, he is put to prejudice in defending the charges framed against him effectively. In W.P.No.17740 of 2012 [J.Jayanthi v. The Secretary to Government, Home (Transport) Dept., Fort St.George, Chennai-9 and others], legality of the charge memo was put to challenge and the learned Judge, while deciding the said case, has placed reliance upon the following judgments:

(i) Suk Das and another v. Union Territory of Arunachal Pradesh [AIR 1986 SC 991]

(ii) Surath Chandra Chakravarthy v. The State of West Bengal [AIR 1971 SC 752]

(iii) State of Uttar Pradesh v. Mohd. Sharif (Dead) through Lrs. [1982(2) SCC 376]

(iv) P.F.George v. State of Tamil Nadu [1980 (1) LLJ 513 (Madras)]

The above cited decisions relied on by the learned Judge lay down the following propositions:

(a) Where the charges framed against the delinquent officer were vague and no allegations regarding it have been made by him before the enquiry officer or before the High Court, the fact that he has participated in the enquiry would not exonerate the department to bring home the charges. The enquiry based on such charges would stand vitiated being not fair.

(b) The whole object of furnishing the statement of allegations is to give all the necessary particulars and details which would satisfy the requirement of giving a reasonable opportunity to put up defence.

(c) In the absence of necessary particulars and statement of witnesses, the delinquent would be prejudiced in the matter of his defence at the enquiry.

(d) Continuance of departmental proceedings on stale and vague charges would be unfair and it violates the Principles of Natural Justice.

Ultimately the learned Judge has quashed the impugned charge memo and also issued consequential direction to place the petitioner at the appropriate place in the seniority list.

13. This Court, keeping in mind the ratio laid down in the decisions rendered by the Hon'ble Supreme Court as well as by this Court, has scrutinized the statement of charges.

14. As rightly contended by the learned Senior Counsel appearing for the petitioner, admittedly the petitioner worked as Commercial Tax Officer in Melur Assessment Circle for the period between 30.07.2012 and 31.12.2012 i.e, for a period of five months and prior to him Thiru.P.Periyasamy worked in that capacity from 01.04.2009 to 09.07.2009, Thiru.R.Karunanidhi from 09.07.2009 to 09.08.2010, Thiru.R.Rajasekaran from 09.08.2010 to 18.06.2012, Thiru.R.Senrayan from 19.06.2012 to 29.07.2012 as Full Additional Charge. It is not the case of the respondents that arrears of taxes fallen due all of a sudden during the period in which the petitioner worked as Commercial Tax Officer, Melur Assessment Circle for a period of five months between 30.07.2012 and 31.12.2012. Admittedly, the arrears of taxes were mounting and as rightly pointed out by the learned Senior Counsel appearing for the petitioner, no action has been taken against the predecessors of the petitioner and according to him, Thiru.R.Rajasekaran, who was the Commercial Taxer in the said circle for the period between 09.08.2010 and 18.06.2012, was permitted to retire.

15. Perusal of Annexure-III to the charge memo would also disclose that even prior to the tenure of the petitioner, there were arrears of taxes and the list of documents also pertain to the period commencing from 2009-2013 and as per Annexure-IV, no oral evidence is going to be let in to support the charges framed against the petitioner. The petitioner, in his interim reply dated 03.02.2015, has pointed out the same and also stated that the documents contains nearly 3000 pages and it is impossible for a prudent man to keep the same in his memory and it is obligatory on the part of the department to furnish true copies of the same and further pointed out that some of them were proceeded for minor penalty under Rule 17(a) of TNCS (D&A) Rules, some of them have been left out and some of them are even allowed to retire, though they were in-charge of the said Circle for the earlier periods.

16. It is very pertinent to point out at this juncture that the allegation merely pertains to loss of revenue to the State and no ill-will or motive or corrupt practice has been levelled against the petitioner except the general charge, namely Charge No.8 which speaks about Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973. In the considered opinion of the Court, the charges framed against the petitioner are vague and admittedly, Annexure-II to the charge memo would also indicate that even prior to the tenure of the petitioner also, such alleged lapses took place, for which, the concerned officials have not been proceeded with and the said fact was also brought to the knowledge of the

Disciplinary Authority by the petitioner in his interim reply, for which also, no response is forthcoming. Thus, on account of vague and indefinite charges framed against the petitioner, he is put to grave prejudice and hardship in defending the charges framed against him.

17. It is also the submission of the learned Senior Counsel appearing for the petitioner that in the absence of any specific or definite allegation that discharge of official duty was with dishonest motive or exercise of official position for personal gain, charges under Rule 17(b) of the TNCS (D&A) Rules cannot be framed. The guidelines framed in this regard is referred to in the Division Bench Judgment of Madurai Bench of this Court in W.P.(MD). No.6809 of 2004 and it is relevant to extract the same:

> " 32....The instructions were quoted as follows: "Without prejudice to the generality of situations involving indiscipline, moral turpitude, corruption, etc., Charges under Rule 17(b) has to be framed in the following types of cases for imposing any one of the major penalties"-
>
> 1.Cases in which there is reasonable ground to believe that a particular offence has been committed by a Government Servant but the evidence forthcoming is not sufficient for prosecution in a Court of Law, e.g., [a] Possession of assets disproportionate to the known source of income;
>
> [b]Obtaining or attempting to obtain illegal gratification;
>
> [c]Misappropriation of Government property, money or shares;
>
> [d]Obtaining or attempting to obtain any valuable thing or pecuniary advantage without consideration, which is not adequate, etc.
>
> 2.Falsification of Government Records.
>
> 3.Irregularity or negligence in the discharge of official duties with a dishonest motive.
>
> 4.Misuse of official position for personal gain.
>
> 5.Disclosure of secret or confidential information even though it does not fall strictly within the scope of the official secrets act.
>
> 6.Misappropriation of Government Funds, false claims of travelling allowance reimbursement of false medical bills etc.,"

As already pointed out, on account of vagueness of charges and in the absence of any specific allegation that negligence on the part of the petitioner in discharging his official duty was actuated with dishonest motive or he exercised his official position with personal gain, charges under Rule 17(b) of the TNCS (D&A) Rules, cannot be framed.

18. The petitioner has obtained informations by invoking the provisions of the Right to Information Act. Thiru.K.Vijayaragavan, Commercial Tax Officer, Melur Assessment Circle, Madurai District has furnished information to the petitioner under the Right to Information Act, vide letter in Roc.No.226/2015/B1 dated 28.05.2015. In the considered opinion of the Court, authenticity of the said information obtained by the petitioner under Right to Information Act, cannot be doubted and the two communications dated 28.05.2015 addressed to the petitioner in that regard are documents of sterling in character and unimpeachable. Two letters have been sent by Thiruj.K.Vijayaragavan, Commercial Tax Officer, Melur Assessment Circle, Madurai District to the petitioner furnishing information under the Right to Information Act and it would disclose that Thiru.R.Rajasekaran was the Commercial Tax Officer and he has also not collected the balance amount of tax and so also his successor, namely Thiru.R.Senrayan. Para 20 of the communication dated 28.05.2015 relates to the period the petitioner worked as Commercial Tax Officer, Melur Assessment Circle and it is relevant to extract the same:

“20. Yearwise breakup details of Arrears of Tax due relating to Tvl.Solaimalai Automobiles Pvt. Ltd., Madurai under TN Entry Tax Act & TNVAT Act for the Assessment Years 2012-13 (Return month from July'12 to Dec'12) which was NOT COLLECTED AND KEPT PENDING ARREARS by Thiru.N.Saravanakumar, formerly CTO, Melur, when he was left from Melur Assessment Circle on 28.02.2014, may be furnished in the following format:

Year	Act	TOTAL TAX DUE (Return Month from July'12 to Dec'12)	Amount of TAX COLLECTED by Thiru.N.Saravanakumar, formerly CTO, Melur	Balance amount of TAX NOT COLLECTED & KEPT PENDING as arrears by Thiru.N.Saravanakumar, formerly CTO, Melur
(1)	(2)	(3)	(4)	(5)
2012-13 (July'12 to Dec'12)	TN ENTRY TAX	3,16,48,801	3,16,48,801	0
	TNVAT	1,08,64,643	1,08,64,643	0
	TOTAL	4,25,13,444	4,25,13,444	0

The above said details would disclose that the petitioner has collected the amount of taxes falling under Tamil Nadu Entry Tax Act and TNVAT Act and no amount is due and payable.

19. The second respondent/Disciplinary Authority, while framing the charges, has failed to advert to the relevant statutory provisions of the TNVAT Act, which prescribes self assessment after the introduction of the said Act and even for the sake of arguments the petitioner has failed to collect the arrears of tax from the concerned dealer and so also the predecessor of the petitioner, admittedly no action has been taken against them or information with regard to action taken against him has not been furnished by the respondents and it is the specific case of the petitioner that Thiru.R.Rajasekaran was also permitted to retire on attaining the age of superannuation for which also, there is no denial.

20. As regards Charge Nos. 3 and 4 are concerned, the contention put forward on behalf of the petitioner deserves acceptance for the reason that the details of cheques dishonoured, for which no action has been taken under the provisions of Negotiable Instruments Act have been given and even as per Annexure No.III, Dishonoured Cheques Register pertain to the period from the year 2009 i.e., much prior to the tenure of the petitioner. So far as lifting of bank attachment is concerned, the petitioner merely followed the instructions of the second respondent, which was communicated through proper channel and it is also his specific stand that attachment came to be in force from 01.04.2013 and it is still in force and hence, the petitioner cannot be faulted for following the directions of the superior officers. As regards Charge Nos. 5 and 6 are concerned, the information obtained under Right to Information Act would disclose that the petitioner had promptly collected Entry Tax as well as Tamil Nadu Value Added Tax whereas his predecessors in office, left the arrears uncollected, for which no action appears to have been taken against him and they may not be faulted with for the reason that collection of taxes/arrears is always an ongoing process, for which necessary in-built mechanism has also been provided under the provisions of the Statute/Rules/Regulations and it can be invoked for the purpose of taking appropriate action and hence, the petitioner cannot be attributed with any dishonest/oblique motive or with corrupt practice.

21. In Zunjarrao Bhikaji Nagarkar v. Union of India and others [(1997) 7 SCC 409], the appellant therein has challenged the initiation of disciplinary proceedings and was unsuccessful before the Tribunal as well as before the High Court and the appeal before the Hon'ble Supreme Court of India was allowed. The Hon'ble Supreme Court of India, in the said decision, observed that

> "42. Initiation of disciplinary proceedings against an officer cannot take place on information which is vague or indefinite. Suspicion has no role to play in such matter. There must exist reasonable basis for the disciplinary authority to proceed against the delinquent officer....
>
> 43....The charge-sheet is sustained, will thus impinge upon the confidence and independent functioning of a quasi-judicial authority. The entire system of

administrative adjudication whereunder quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing their functions without fear or favour because of the constant threat of disciplinary proceedings.”
(emphasis supplied)

22. In Union of India v. P.Parameswaran [2008 (226) E.L.T. 696 (Mad)-DB], it has been observed that “it is necessary that before initiating disciplinary action, the Department must have a prima facie material to show recklessness and that the officer had acted negligently or by his order unduly favoured a party and his action was actuated by corrupt motive.... Entire articles of charges read as a whole would indicate that there is no specific allegation of recklessness or utter negligence of the quasi-judicial function and similarly there is no specific allegation of any overt misconduct.” This Court is of the view that the above cited decisions would be applicable to the facts of this case.

23. In the considered opinion of the Court, in the absence of specific imputation of dishonest/oblique motive, lack of bonafide or utter negligence in discharge of duties, initiation of disciplinary proceedings is required to be quashed. The allegations pertains to the alleged act of the petitioner during his tenure as Commercial Tax Officer, Melur Assessment Circle for the period between 30.07.2012 and 31.12.2012 and in pursuant to the orders passed in W.P.Nos.11129/2013, 11324/2013 and 20336 of 2013, the petitioner and others were promoted as Assistant Commissioners and this Court is of the view that subsequent promotion of the petitioner has also washed out his alleged delinquency. The petitioner alone has been proceeded with for the reasons best known to the Disciplinary Authority and that apart, the charges framed against the petitioner are also very vague and in the absence of any specific allegation as to dishonest/oblique motive or deliberate act of negligence or undue favour shown, the impugned charge memo cannot be sustainable.

24. In the result, this Writ Petition is allowed and the impugned charge memo bearing Ref.No.CD2/16647/2014-III dated 30.10.2014 on the file of the second respondent is quashed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

jvm

To

1.The Secretary,
Government of Tamil Nadu
Commercial Taxes and Registration Department,
Fort St.George, Chennai-600 009.

2.The Principal Secretary/Commissioner of Commercial Taxes,
O/o The Commissioner of Commercial Taxes,
Ezhilagam, Chennai-5.

W.P.No.29030 of 2015

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