IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34295 of 2015
and
M.P.No.1 of 2015

Tvl.Robo Garments rep. by its
Sole Proprietor
8/1235/A Vigneshwara Road,
Mummoorthy Nagar, Pooluvarpatti P.O.,
P.N. Road, Tiruppur 641 602. .. Petitioner

Vs

1.The Commercial Tax Officer,
Mettupalayam Road Circle,
Mettupalayam, Coimbatore.

2.The Deputy Commercial Tax
Officer, BTPS Enforcement,
Coimbatore.

3.The Branch Manager,
Karur Vysya Bank, Tiruppur. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the respondents to return to the petitioner the cheques bearing Nos.000927, 000928 and 000929 drawn on the third respondent bank and collected by respondents 1 and 2 from the petitioner.

For Petitioner : Mr.Adithya Reddy

For Respondents: Mr.S.Kanmani Annamalai,
Addl. Govt. Pleader (T) for R1 & R2

ORDER

Seeking a direction to the respondents 1 and 2 to return the cheques bearing Nos.000927, 000928 and 000929 drawn on the third respondent bank to the petitioner, the present writ petition has been filed.

2.The petitioner is the manufacturer of hosiery garments and dealer in clothes and garments and the petitioner has been regularly paying tax. While so, on 29.09.2015, the respondents 1 and 2 visited the petitioner's premises and conducted surprise inspection. Based on the inspection report, the respondents 1 and 2 arrived at a total tax demand of Rs.25,43,660/-. According to the petitioner, the respondents 1 and 2 have no jurisdiction to assess the petitioner and collect the tax from the petitioner during the course of inspection. Hence the petitioner is before this Court.

3.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

4.Learned counsel for the petitioner would submit that the issue involved in this writ petition is covered by the decision of this Court in M/s.Astek Electricals and Controls Vs. The Assistant Commissioner (CT), The Commercial Tax Officer Enforcement and The Branch Manager, Canara Bank ((2014) 67 VST 321 (Mad.) and prays for allowing the writ petition.

5.This Court time and again held that there is no power vested with the enforcement wing authorities to compel the petitioner to handover the cheques and despite the same, they are collecting cheques. As rightly submitted by the learned counsel for the petitioner, the issue raised in the writ petition is squarely covered by the above decision of this Court.

6.Following the decision in M/s.Astek Electricals and Controls's case (cited supra), this writ petition is allowed and the respondents 1 and 2 are directed to return the cheques bearing Nos.000927, 000928 and 000929 respectively to the petitioner forthwith. It is always open to the assessing authority to pass appropriate orders in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer,
Mettupalayam Road Circle,
Mettupalayam, Coimbatore.

2.The Deputy Commercial Tax
Officer, BTPS Enforcement,
Coimbatore.

3.The Branch Manager,
Karur Vysya Bank,
Tiruppur.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.59961
+1cc to the Government Pleader, S.R.No.59911

VSN(CO)
EU(19/11/2015)

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