

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos. 5475 & 5476 of 2015
& M.P.Nos.1&1 of 2015

M/s. Care Stream Health India Pvt. Ltd.,
Represented by its Manager Accounts/Authorised
Signatory, Mr.Sunil Domingo
New No.20, Old No.3, Avenue Road,
First Street, Nungambakkam,
Chennai-600 034.

... Petitioner in both Wps

vs

1. The Appellate Deputy Commissioner
(CT) Central, C.T.Building,
Annexe 3rd Floor, Greams Road,
Chennai-600 006.
2. The Assistant Commissioner,
Commercial Tax Department,
Vadapalani-I Assessment Circle
Greams Road, Chennai-600 006.

... Respondents in both Wps

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records comprised in S.P.Nos.28 & 29 of 2014 in CST Nos.176 and 177 of 2014 dated 30.12.2014 on the file of the 1st respondent, quash the same insofar it directs payment of Rs.24,48,604/- and Rs.47,65,084/- respectively being another 25% of the disputed tax and furnishing bank guarantee to the satisfaction of the Assessing Officer for the balance tax in full of Rs.48,97,206/- and Rs.95,30,168/- and direct the first respondent to hear the appeal without insisting on compliance with the above conditions.

For Petitioner :M/s. Mohammed Shaffiq

For Respondent :Mr.ANR Jayapratap,
Additional Government Pleader (T)

O R D E R

By consent, the main Writ Petitions itself are taken up for final disposal.

2. The petitioner has filed the present Writ Petitions to quash the orders of first respondent dated 30.12.2014.

3. Admittedly, this Court, by order dated 26.02.2015 in W.P.Nos.5121 and 5122 of 2015 directed the authority concerned to consider and pass orders in the rectification petition filed by the petitioner herein. The contention of learned counsel for petitioner is that when an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, has been filed, the question of depositing the amount required by the second respondent in the impugned proceedings may not arise. The fact that the petition is pending before the authority is not disputed. Learned counsel for petitioner has also submitted that the petitioner has also appeared before the respondents on 26.02.2015.

4. In view of the above stated position, this Court directs that the impugned proceedings shall be kept in abeyance till the disposal of the petition filed by the petitioner under Section 84 of the Tamil Nadu Value Added Tax, 2006. After disposal of the rectification petition, it is open to respondents to decide the issue covered in these writ petitions and it is open to the petitioner to raise all its objections and challenge the impugned proceedings in accordance with law.

With the above observation, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

02.03.2015

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This matter having been tested under the caption for being mentioned on 5/3/2015 pursuant to the order of this court dated 2/3/2015 and made herein in the presence of the aforesaid counsels on the either side, the Court made the following order.

Today, the matter is listed under the caption "for being mentioned" at the instance of learned counsel for petitioner.

2. Even though the order of this Court dated 02.03.2015 has been communicated to the respondents, the officer, who is present before this Court, has stated that after recovery of amount only, he came to know about the order of this Court.

3. Mr.Manoharan Sundaram, learned Additional Government Pleader (Taxes), submits that the officer has been instructed to pay back the amount to the petitioner.

The submission of learned Additional Government Pleader (Taxes) is recorded and the respondents are directed to refund the amount to the petitioner before the end of this week. In view of the above direction, no further clarification is required in this order.

GM

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner
(CT) Central, C.T.Building,
Annexe 3rd Floor, Greams Road,
Chennai-600 006.
2. The Assistant Commissioner,
Commercial Tax Department,
Vadapalani-I Assessment Circle
Greams Road, Chennai-600 006.

+1cc to the Special Government Pleader(Taxes), S.R.No.12843
+1cc to Mr.Mohammed Shaffiq, Advocate, S.R.No.11428
+1cc to the Special Government Pleader(Taxes), S.R.No.11446

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TEJ(CO)
CA(24/03/2015)

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