

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.10204 of 2016

Tvl.Sivasakthi Medicals,
represented by its Proprietor,
P. Selvaraj,
No.64/H, Katcheri Streete,
Vallari Gate,
Velur Road,
Tiruchengode - 637 231 Petitioner

v.

1. The Commercial Tax Officer,
(Enforcement), Group-IV,
Salem
2. The Commercial Tax Officer,
Tiruchengode (Town) Assessment Circle,
Tiruchengode Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to arrange to return back the cheque Nos.000020, 000021 and 000024 dated 2.2.2016 respectively for a value of each cheque Rs.1,00,000/-, Rs.1,00,000/- and Rs.56,424/- issued on HDFC Bank, Tiruchengode collected on the spot on 02.02.2016 as being contrary to the principles laid down by this court in the judgment reported in 1992 (87) STC 513 (Hotel Blue Nile vs State of Tamil Nadu and others).

For Petitioner : Mr.R. Senniappan

For Respondent : Mr.V. Haribabu
AGP (T)

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus directing the first respondent to arrange to return back the cheques bearing Nos.000020, 000021 and 000024 dated 2.2.2016 respectively for the value of Rs.1,00,000/-, Rs.1,00,000/- and Rs.56,424/- issued on HDFC Bank, Tiruchengode collected on the spot on 02.02.2016 as being

contrary to the principles laid down by this court in the judgment reported in 1992 (87) STC 513 (Hotel Blue Nile vs State of Tamil Nadu and others.

2. It is the case of the petitioner that even without passing the order of assessment, the first respondent had obtained three cheques bearing Nos. Nos.000020, 000021 and 000024 dated 2.2.2016 respectively for the value of Rs.1,00,000/-, Rs.1,00,000/- and Rs.56,424/, thus totalling Rs.2,56,524.

3. The learned counsel for the petitioner submitted that the issue, involved in the present writ petition, is covered by the Order of this Court in W.P.No.6498 of 2016 dated 23.2.2016.

4. Mr.V. Haribabu, learned Additional Government Pleader, taking notice for the respondent, submitted that since the cheques were obtained by the first respondent, even without passing the order of Assessment and valid demand, the first respondent may be directed to return the cheques to the petitioner.

5. Since the issue, involved in the present writ petition is similar to the relief granted by this Court in W.P.No.6498 of 2016 dated 23.02.2016 and further, since the first respondent had obtained the cheques from the petitioner even without the order of assessment and valid demand, the first respondent cannot hold the cheques. In these circumstances, I direct the first respondent to return the cheques bearing Nos.000020, 000021 and 000024 dated 2.2.2016 respectively for the value of Rs.1,00,000/-, Rs.1,00,000/- and Rs.56,424/, obtained from the petitioner, with three days from the date of receipt of a copy of this order.. With this observation, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Commercial Tax Officer,
(Enforcement), Group-IV,
Salem.

2. The Commercial Tax Officer,
Tiruchengode (Town) Assessment Circle,
Tiruchengode.

+lcc to Mr.r.Senniappan, Advocate, S.R.No.17247
+lcc to the Government Pleader, S.R.No.17611

W.P.No.10204 of 2016

scd(CO)
srg(18/03/2016)



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