

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.Nos.10396 and 10397 of 2016

and

WMP Nos.9174 to 9177 of 2016

M/s Sri Karunya Hosier Clothing,
rep by its Partner HK.L. Karthikeyan,
No.1, Aruchetti Thottam,
T.V.K. Nagar,
College Road,
Tirupur-641 602 ..Petitioner in W.P.No.10396/2016

M/s Karunya Knit Wears,
rep by its Proprietor K.L. Karthikeyan,
No.1, Aruchetti Thottam,
T.V.K. Nagar,
College Road,
Tirupur-641602 .. Petitioner in W.P.No.10397/2016

Vs.

1. The Assistant Commissioner (CP),
North Circle,
Tirupur
2. The Commercial Tax Officer,
BTPS, Enforcement,
Coimbatore
3. The Deputy Commercial Tax Officer,
Central Enforcement Wing I,
Coimbatore
4. The Branch Manager,
The Karnataka Bank Limited,
P.N. Road,
Tirupur - 641 602

..Respondents in both the Writ Petitions

Writ Petitions filed under Article 226 of the Constitution of India to issue Writs of Mandamus, directing the respondents to return the post dated cheques bearing Nos.577035 dated 10.03.2016 for a sum of Rs.5,46,000/- (in respect of W.P.No.10936 of 2016) and 888821 dated 25.2.2016 for a sum of Rs.10,00,000/- and 888822 dated 25.03.2016 for a sum of Rs.12,47,000/- (in respect of WP No.10937 of 2016) drawn on the 4th respondent bank and collected by respondents 2 and 3 from the petitioner.

For Petitioners : Mr.M. Aravind Subramaniam

For R.1 & R.3 : Mr.S. Manoharan Sundaram
Addl.Govt.Pleader

COMMON ORDER

The petitioners have filed the above writ petitions to issue writs of Mandamus, directing the respondents to return the post dated cheques bearing Nos.577035 dated 10.03.2016 for a sum of Rs.5,46,000/- (in respect of W.P.No.10936 of 2016) and 888821 dated 25.2.2016 for a sum of Rs.10,00,000/- and 888822 dated 25.03.2016 for a sum of Rs.12,47,000/- (in respect of WP No.10937 of 2016) drawn on the 4th respondent bank and collected by respondents 2 and 3 from the petitioner.

2. It is the case of the petitioners that even without an order of assessment, being passed against the petitioners, the respondents 1 and 2 have collected post dated cheques from the petitioners and when there is no assessment order passed against the petitioners, the respondents cannot obtain the cheques from the petitioners.

3. Mr.S. Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents 1 to 3, submitted that since the respondents 1 and 2 have obtained the cheques without an order of assessment, being passed against the petitioners, the same can be directed to be returned to the petitioners.

4. In view of the submissions made by the learned counsel on either side, since the cheques were obtained by the respondents 1 to 3 without an order of assessment, being passed against the petitioners, they have no authority to obtain the cheques from the petitioners, Therefore, I direct the respondents 1 to 3 to return the post dated cheques bearing Nos. (i) 577035 dated 10.03.2016 for a sum of Rs.5,46,000/- (Rupees five lakhs forty six thousand only)(in WP No.10936/2016) and (ii) 888821 dated 25.2.2016 for a sum of Rs.10,00,000/- (Rupees ten lakhs only) and 888822 dated 25.03.2016 for a sum of Rs.12,47,000/- (Rupees twelve lakhs forty seven thousand only)

(in WP No.10937/2016) drawn on the fourth respondent bank forthwith, on production of a copy of this order. With this observation, both the writ petitions are disposed of. No costs. Consequently, connected Mps are closed.

sr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Assistant Commissioner (CP),
North Circle,
Tirupur
2. The Commercial Tax Officer,
BTPS, Enforcement,
Coimbatore
3. The Deputy Commercial Tax Officer,
Central Enforcement Wing I,
Coimbatore
4. The Branch Manager,
The Karnataka Bank Limited,
P.N. Road,
Tirupur - 641 602

+ 2 ccs to Mr.M.Aravind Subramaniam, Advocate Sr 18885 & 18886

KR/29/3/16

सत्यमेव जयते

W.P.Nos.10396 & 10397/2016

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