IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1139 of 2016
& WMP.No.872 of 2016

Tvl.Saranya Garments Pvt.Ltd.,
Rep by its Managing Director,
R.Marappan,
S.F.No.284, Andipalayam post,
Tirupur-641 687. ..Petitioner

Vs.

1. The Commercial Tax Officer,
(Enforcement),
Group-I,
Coimbatore.

2.The Assistant Commissioner(CT),
Central-II Assessment Circle,
Tirupur. ... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of Mandamus to direct the respondents to arrange to return back the cheques bearing Nos.002834 to 002836 dated 19.10.2015 for an amount of Rs.1,50,00,128-00 collected at the time of inspection by the first respondent contrary to the principle laid down by this Hon'ble Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs. State of Tamil Nadu & Others).

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.S.Manoharan Sundaram, AGP.



ORDER

Seeking a direction to the respondents 1 and 2 to return the cheques bearing Nos.002834 to 002836 dated 19.10.2015 for a value of Rs.1,50,00,128-00 issued by the Bank of Baroda, Mangalam Road Branch, Tirupur in respect of the petitioner, the present writ petition is filed.

2. It is the case of the petitioner that the petitioner is a Private Limited Company and registered in the books of the second respondent herein. The petitioner is effecting purchases of yarn, cloth and packing materials within the State and sale of cloth and hosiery garments within the State and Inter-State also. The petitioner had filed its monthly returns every month with payment of tax to the second respondent as per the proviso to Section 22(2) of the TNVAT Act, 2006. While so, on 19.10.2015, 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.1,50,00,128-00.

3. According to the petitioner, the respondents 1 and 2 have no jurisdiction to assess the petitioner and collect the tax from the petitioner by way of cheques during the course of inspection. Hence the petitioner is before this Court.

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

5. The learned counsel for the petitioner would submit that the issue involved in this writ petition is covered by the decision of this Court reported 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.

6. 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.



7. Following the decision 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.)) (cited supra), the writ petition is allowed and the respondents 1 and 2 are directed to return the cheque Nos.002834 to 002836 dated 19.10.2015 for a value of Rs. 1,50,00,128-00 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.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

msr/dn
To

1. The Commercial Tax Officer,
(Enforcement),
Group-I,
Coimbatore.

2. The Assistant Commissioner(CT),
Central-II Assessment Circle,
Tirupur.

+1 cc to Special Government Pleader sr.4560/16
+1 cc to Mr.R.Senniappan Advocate sr.4341/16

W.P.No.1139 of 2016
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