

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.11530 of 2016

M/s.Spice International
rep by its Proprietor M.Muthu Kumarasamy,
No.26/32-B, Kumar Nagar East 1st Street,
Tirupur.

... Petitioner

Vs.

1.The Commercial Tax Officer,
(Enforcement),
C.T.Building, Group-VI,
Coimbatore.

2.The Assistant Commissioner (CT),
Tirupur (North) Assessment Circle,
Tirupur.

3.The Deputy Commissioner (CT),
Kumaran Road,
Tirupur -1.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to direct the respondents 1 & 2 to arrange to return back the cheque Nos.102109, 102110 and 102111 dated 02.02.2016 for a value of each cheque Rs.10,00,000/-, Rs.15,00,000/- and Rs.25,00,000/- respectively issued by the IndusInd Bank, Tirupur Branch collected by the 1st respondent on the spot on 02.02.2016 as being contrary to the principle laid down by this 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.Kanmani Annamalai,

Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus to direct the respondents 1 & 2 to return the cheque Nos.102109, 102110 and 102111 dated 02.02.2016 for a sum of each cheque Rs.10,00,000/-, Rs.15,00,000/- and Rs.25,00,000/- respectively drawn on IndusInd Bank, Tirupur Branch collected by the 1st respondent on the spot on 02.02.2016.

2.It is the case of the petitioner that at the time of inspection, the 1st respondent had collected the above referred cheques even without any demand or an order of assessment being passed against the petitioner. According to the learned counsel for the petitioner, collection of the cheques by the 1st respondent without any order is against the provisions of law.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that since the 1st respondent had collected the cheques without any order being passed against the petitioner, the respondents 1 & 2 may be directed to return the cheques to the petitioner.

4.It is brought to the notice of this Court that the respondents had realized the cheque for a sum of Rs.15,00,000/-, however, the cheques for Rs.10,00,000/- and Rs.25,00,000/- were returned by the Bank for want of sufficient funds.

5.In view of the submissions made by the learned counsel on either side, taking note of the fact that the 1st respondent had collected the above referred cheques without an order of assessment or demand being made against the petitioner, the respondents 1 & 2 have no authority to retain the cheques with them. Accordingly, I direct the respondents 1 & 2 to return the cheques for the sum of Rs.10,00,000/- and Rs.25,00,000/- dated 02.02.2016 obtained by the 1st respondent at the time of inspection to the petitioner within three days from the date of receipt of a copy of this order, on production of a copy of this order.

6.With these observations, the Writ Petition is disposed of. No costs.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

va

To

1.The Commercial Tax Officer,
(Enforcement), C.T.Building, Group-VI,
Coimbatore.

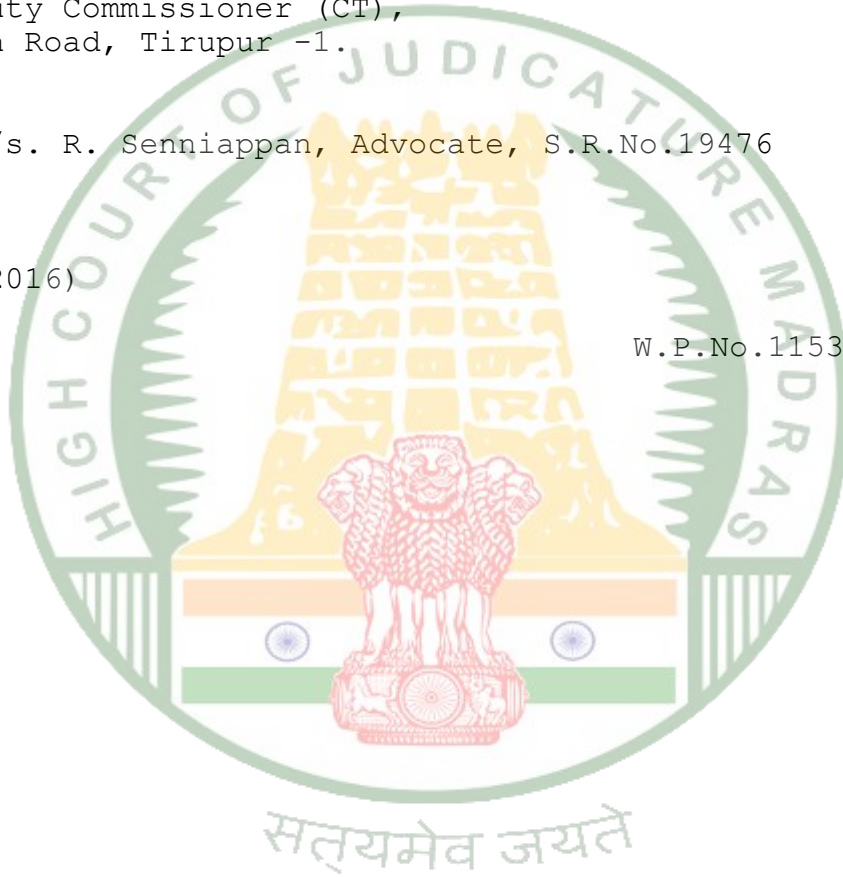
2.The Assistant Commissioner (CT),
Tirupur (North) Assessment Circle,
Tirupur.

3.The Deputy Commissioner (CT),
Kumaran Road, Tirupur -1.

+1cc to M/s. R. Senniappan, Advocate, S.R.No.19476

KGK(CO)
EU(29/03/2016)

W.P.No.11530 of 2016



WEB COPY