

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.13795 of 2016 &
W.M.P.No.12109 of 2016

M/s.Venu Residency
Rep by its Partner

S.Venugopal

No.431/ 83, Periyar Colony

Avinashi Road

Tirupur - 641 603

... Petitioner

v.

1 The Joint Commissioner (CT)
(Enforcement Wing)
Coimbatore

2 The Assistant Commissioner (CT)
Rural Assessment Circle
Tirupur

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 2nd respondent in TIN. No.33552392197/2015-16 dated 19.11.2015 and quash the same as being without jurisdiction and authority of law and further directing the 1st and 2nd respondents to arrange to return back cheque No.37396847, dated 21.9.2015 for a value of Rs.3,86,220/- issued by Vijaya Bank, Tirupur Branch collected by the 1st respondent on the spot on 21.9.2015 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 Respondent : Mr.Manoharan Sundaram
Addl. Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent dated 19.11.2015, to

quash the same as being without jurisdiction and authority of law and further direct the respondents to return the cheque No.37396847, dated 21.9.2015, for a sum of Rs.3,86,220/- issued by the petitioner.

2. It is the case of the petitioner that without an assessment order being passed against the petitioner, the first respondent had collected the cheque from the petitioner, which is against the settled position of law.

3. Mr.R.Senniappan, learned counsel appearing for the petitioner submitted that the respondents may be directed to return the cheque to the petitioner.

4.Mr.Manoharan Sundaram, learned Additional Government Pleader(Taxes), appearing for the respondents submitted that since the cheque was collected by the first respondent without an assessment order being passed against the petitioner, the respondents may be directed to return the cheque to the petitioner.

4. In view of the submissions made by the learned counsel on either side, the impugned notice dated 19.11.2015 is set aside and the respondents are directed to return the cheque No.37396847, dated 21.9.2015 issued by the petitioner for a sum of Rs.3,86,220/- to them, within a period of three days, from the date of receipt of a copy of this order, since the same was collected by the respondents without an order being made against the petitioner.

With this observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Rj

s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1 The Joint Commissioner (CT)
(Enforcement Wing) Coimbatore

2 The Assistant Commissioner (CT)
Rural Assessment Circle Tirupur

+ 1 cc to Mr.R.Senniappan, Advocate, SR 24325

+ 1 cc to Spl.Govt.Pleader, High Court, Madras SR 24450

ks(co)
prk26/4

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