IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.13973 of 2016 &

W.M.P.No.12215 of 2016

Tvl. T. Varur Oils and Fats (P) Ltd
Rep by its Authorised Signatory
Govind Sharma
No.280, Seemangalam Post
Karuppur Village, Adiakkamangalam
Nagapattinam .. Petitioner

v.

1 The Commercial Tax Officer
Nagapattinam Assessment Circle
Nagapattinam

2 The Assistant Commissioner(CT)
(Enforcement) Karur .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents not to insist cheque contrary to the direction issued by this Court in the Judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs State of Tamil Nadu & others) for payment of tax and other amounts in the absence of order of assessment with law and issue such further writ order or direction as this Court may deem fit and proper.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader (Taxes)

ORDER

The petitioner has filed the above writ petition to issue a writ of Mandamus to direct the respondents not to insist to issue a cheque contrary to the direction issued by this Court in the Judgment reported in 1992 (87) STC 513 (Hotel Blue Nile Vs State of Tamil Nadu & others) for payment of tax and other amounts in the absence of an order of assessment.

2. It is the case of the petitioner that without passing an order of assessment, the respondents are insisting the petitioner to issue a cheque, which is contrary to the settled position of law.

3. Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), appearing for the respondents submitted that the first respondent, who is the Assessing Authority, may be directed to pass an order of assessment and till the passing of the order of assessment, the respondents cannot insist the petitioner to issue a cheque.

4. In view of the submissions made by the learned counsel on either side, the first respondent, who is the Assessing Authority, is directed to issue show cause notice to the petitioner and after receiving objections from the petitioner shall pass an order of assessment, after giving due opportunity of personal hearing to the petitioner. Till the passing of the order of assessment, the respondents cannot insist the petitioner to issue a cheque, which is contrary to the settled position of law.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rj

To

1 The Commercial Tax Officer
Nagapattinam Assessment Circle
Nagapattinam

2 The Assistant Commissioner(CT)
(Enforcement) Karur

+1 cc to M/s.R.Senniappan Advocate sr.24324

+1 cc to Special Government Pleader Taxes sr.24452

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