IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.14553 of 2016 and
W.M.P.No.12733 of 2016

J.Selvakumar
Proprietor of M/s.Kenanya Films,
13/16, United India Colony,
5th Cross Street, Kodambakkam,
Chennai - 600 024. ... Petitioner

Vs.

1.The Principal Secretary to the Government,
Commercial Tax and Registration Department,
Fort St.George, Chennai - 600 009.

2.The Principal Secretary/ Commissioner of
Commercial Taxes,
Commercial Tax Department,
Ezhilagam, Chepauk, Chennai - 600 005. ... 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 consider the application dated 30.03.2016 for entertainment tax exemption made by the petitioner for the movie "ஒரு நாள் கூத்து" (Oru Naal Koothu) and accordingly grant the same.

For Petitioner : Mr.R.Muthukumarasamy,
Senior Counsel
for M/s.Arun C Mohan

For Respondents: Mr.V.Haribabu,
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 consider the application dated 30.03.2016 for entertainment tax exemption made by the petitioner for the movie "ஒரு நாள் கூத்து" (Oru Naal Koothu).

2.It is the case of the petitioner that he applied for the grant of entertainment tax exemption for the Tamil movie "ஒரு நாள் கூத்து" on 02.03.2016 and that pursuant to the application, the members of the Viewing Committee had viewed the movie.

3.Mr.R.Muthukumarasamy, learned Senior Counsel appearing for the petitioner submitted that the Tamil movie "ஒரு நாள் கூத்து" is scheduled to be released on 29.04.2016 and that if the entertainment tax exemption is not given to the movie, the petitioner would be put to irreparable monetary loss and prejudice.

4.Mr.V.Haribabu, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that in view of the Circular issued by the Election Commission of India dated 18.03.2016, the respondents are not in a position to pass orders in the application presented by the petitioner. Further, the learned Additional Government Pleader submitted that the Hon'ble Supreme Court, in an identical matter, in Civil Appeal Nos.5893 to 5895 of 2015 dated 03.08.2015, had formulated guidelines for the grant of exemption of entertainment tax, which reads as follows:

> "(a) Any applicant, who is eligible to apply for grant of exemption from payment of entertainment tax, shall be called for screening of the film by the Committee within two weeks from the date of submission of the application.
>
> (b) Such an intimation by the Committee shall be sent to the producer of the film within three days from the date of submission of the application.
>
> (c) The producer shall make arrangements for screening of the film within a week from the date of submission of the application.
>
> (d) The Committee shall send its recommendation to the State Government within a period of one week and the State Government shall take an appropriate decision within two weeks therefrom.
>
> (e) The film shall be considered in accordance with date of application. To clarify, the chronology of the receipt of application shall be given the priority.
>
> The appeals are, accordingly, disposed of. There shall be no order as to costs."

5.In view of the submissions made by the learned counsel on either side, I am of the view that the respondents can get the concurrence from the Election Commission of India for passing orders in the application presented by the petitioner for the grant of exemption of entertainment tax for the Tamil Movie "ஒரு நாள் கூத்து", Accordingly, liberty is given to the respondents to address the Election Commission of India for getting their concurrence for the grant of exemption of entertainment tax for the Tamil movie "ஒரு நாள் கூத்து" scheduled to be released on 29.04.2016 and pass orders after getting concurrence from the Election Commission of India and following the guidelines formulated by the Hon'ble Supreme Court in Civil Appeal Nos.5893 to 5895 of 2015 dated

03.08.2015.

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

va Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Principal Secretary to the Government,
Commercial Tax and Registration Department,
Fort St.George, Chennai - 600 009.

2.The Principal Secretary/ Commissioner of
Commercial Taxes,
Commercial Tax Department,
Ezhilagam, Chepauk, Chennai - 600 005.

+ 2 ccs to M/s.Arun C Mohan, Advocate Sr 24177

+ 1 cc to The Spl.Govt.Pleader, (Taxes) Sr 24441

KR/20/4/16

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