

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.16064 of 2016

M/s.Sri Nithya Lakshmi & Co.,
rep by its Proprietor K.Subramani
No.68, Thanthai Periyar Nagar,
Sowripalayam, Coimbatore- 641 028
Coimbatore District.

... Petitioner

Vs.

1.The Assistant Commissioner (CT),
Singanallur Assessment Circle,
Coimbatore, Coimbatore District.

2.The Commercial Tax Officer,
Enforcement, Group-IV,
Coimbatore, Coimbatore District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to direct the 1st respondent to return an amount of Rs.40,00,000/- forcibly collected vide Cheque bearing Nos.:877692/ 04.03.2016 for Rs.10,00,000/-; 877693/31.03.2016 for Rs.10,00,000/-; 877694/29.04.2016 for Rs.10,00,000/- and 877695/31.05.2016 for Rs.10,00,000/- drawn on Tamil Nadu Mercantile Bank, Nanjappa Road Branch, Coimbatore favouring the 1st respondent from the petitioner at the time of inspection on 25.02.2016 by the officials of the 2nd respondent as per the representation dated 01.03.2016.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mr.Manoharan Sundaram,
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 1st respondent to return the four cheques collected at the time of inspection on 25.02.2016 by the officials of the 2nd respondent.

2. Admittedly, no assessment order has been passed as against the petitioner. The learned counsel appearing for the petitioner submitted that in the absence of an order of assessment made by the respondents, the collection of cheques by the 1st respondent is erroneous.

3. Mr. Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that since the cheques were collected by the respondent prior to the passing of an order of assessment, the respondent may be directed to return the cheques to the petitioner.

4. 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, the respondent has no authority to retain the cheques with them. Accordingly, I direct the 1st respondent to return the cheques for the sum of Rs.40,00,000/- collected by them at the time of inspection on 25.02.2016, even prior to the passing of an order of assessment, to the petitioner forthwith.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

va
To

1. The Assistant Commissioner (CT),
Singanallur Assessment Circle,
Coimbatore, Coimbatore District.

2. The Commercial Tax Officer,
Enforcement, Group-IV,
Coimbatore, Coimbatore District.

+1 cc to the Special Government Pleader (Taxes)

High Court Madras sr27117

+1 cc to M/s.R.Hemalatha Advocate sr.26929

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