IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1938 of 2016
& WMP.No.1695 of 2016

Tvl. General Engineering Suppliers,
Rep. by its Proprietor, R.Jude,
No.130, Thanneer Panthal Road,
B.R.Puram,Peelamedu, Coimbatore-641 004. ..Petitioner

Vs.

1. The Commercial Tax Officer,
   Enforcement,
   Roving Squad-I,
   Coimbatore.

2. The Deputy Commercial Tax Officer,
   Enforcement,
   Pitchanur Check Post,
   Coimbatore.

3. The Assistant Commissioner(CT),
   Peelamedu (North) Assessment Circle,
   Peelamedu,
   Coimbatore-641 018. ... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of Mandamus to direct the respondents 1 to 3 to arrange to return back the cheques bearing Nos.001853 to 001857 dated 23.12.2015 for an amount of Rs.1,80,54,876/- collected on the spot despite 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.Manoharan Sundaram, AGP.

ORDER

Seeking a direction to the respondents 1 and 2 to return the cheques bearing Nos.001853 to 001857 dated 23.12.2015 for a value of Rs.1,80,54,876/- issued by the City Union Bank, Ramnagar Branch, Coimbatore in respect of the petitioner, the present writ petition is filed.

2. It is the case of the petitioner that the petitioner is a Proprietor Firm and is a registered dealer under the Tamilnadu Value added Tax Act, 2006 as well as Central Sales Tax Act. The petitioner is effecting sales of textile machinery spares and iron scraps within the State and other State. The petitioner had filed its monthly return every month with payment of tax to the third respondent as per the proviso to Section 22(2) of the TNVAT Act, 2006. While so, on 22.12.2015 and 23.12.2015, the respondents 1 and 2 visited the petitioner's premises and conducted surprise inspection. Based on the inspection report, the respondents 1 and 2 arrived at a total tax demand of Rs.1,80,54,876/-.

According to the petitioner, the respondents 1 and 2 have no jurisdiction to assess the petitioner and collect the tax from the petitioner by way of cheques during the course of inspection. Hence the petitioner is before this Court.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

4. The learned counsel for the petitioner would submit that the issue involved in this writ petition is covered by the decision of this Court reported in M/s. Astek Electricals and Controls Vs. The Assistant Commissioner (CT), The Commercial Tax Officr Enforcement and the Branch Manager, Canara Bank (2014) 67 VST 321 (Mad.) and prays for allowing the writ petition.

5. This Court time and again held that there is no power vested with the Enforcement Wing Authorities to compel the petitioner to handover the cheques and despite the same, they are collecting cheques. As rightly submitted by the learned counsel for the petitioner, the issue raised in the writ petition is squarely covered by the above decision of this Court.

6. Following the decision reported in M/s. Astek Electricals and Controls's case, the writ petition is allowed and the respondents 1 and 2 are directed to return the cheques bearing cheque Nos.001853 to 001857 dated 23.12.2015 for a value of Rs.1,80,54,876/- to the petitioner forthwith. It is always

open to the Assessing Authority to pass appropriate orders in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

dn/msr

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer,
   Enforcement,
   Roving Squad-I,
   Coimbatore.

2. The Deputy Commercial Tax Officer,
   Enforcement,
   Pitchanur Check Post,
   Coimbatore.

3. The Assistant Commissioner(CT),
   Peelamedu (North) Assessment Circle,
   Peelamedu,
   Coimbatore-641 018.

+ 1 cc to Mr.R.Seniappan, Advocate SR 4342

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 4562

gj(co)
prk10/2
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