IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.40208 of 2015 and
M.P.No.1 of 2015 and
W.M.P.No.1600 of 2016

M/s.Vivintex
rep by its Proprietrix G.Vijayakumari
#51, Elango Nagar,
4th Cross Street, P.N.Road,
Tirupur - 641 602. ... Petitioner

Vs.

The Commercial Tax Officer,
Enforcement Wing,
The Office of the Commercial Tax Officer,
Kumaran Street,
Tirupur. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the respondent from misusing the illegally acquired cheques and blank letter heads from the petitioner.

For Petitioner : Mr.M.K.S.Sundar

For Respondent : Mr.S.Kannmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus forbearing the respondent from misusing the illegally acquired cheques and blank letter heads from the petitioner.

2.It is the case of the petitioner that the respondent forcibly collected post dated cheques to the tune of Rs.One Crore and also had taken a statement of the petitioner forcibly in the surprise inspection conducted by the respondent.

3.The learned counsel for the petitioner submitted that since the respondent had forcibly obtained the cheques, they might misuse the same, even without any assessment order being passed by them. Further, the learned counsel submitted that in similar circumstances, this Court, in W.P.No.3567 of 2016 dated 04.02.2016, had directed the respondent to return the cheques obtained by them forcibly from the petitioner therein.

4.Mr.S.Kannmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent submitted that the respondent may be directed to return the cheques obtained from the petitioner and in the event of the respondent having presented the cheques for collection and realised the money, the question of refund can be considered after passing of the assessment order.

5.Having regard to the submissions made by the learned counsel on either side, taking into consideration the order passed by this Court in W.P.No.3567 of 2016 dated 04.02.2016, I direct the respondent not to use the cheques obtained from the petitioner and further direct the respondent to return the cheques to the petitioner, if it is not presented for collection. In the event of the cheques being presented for collection, the question of refund shall be decided by the respondent after passing of the assessment order. In the event of any excess amount lying with the respondent, the respondent shall return the same to the petitioner after the passing of the assessment order.

6.It is brought to the notice of this Court that the respondent had attached the bank accounts of the petitioner.

7.In view of the passing of the present order, the respondent is directed to raise the order of attachment in respect of bank accounts of the petitioner.

8.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

va

To

The Commercial Tax Officer,
Enforcement Wing,
The Office of the Commercial Tax Officer,
Kumaran Street,
Tirupur.

1 cc to Mr.M.K.S. Sundar, Advocate, Sr. 10970
1 cc to Special Government Pleader (Taxes), Sr. 10862

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M.P.No.1 of 2015 and
W.M.P.No.1600 of 2016

JSV (CO)
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