

In the High Court of Judicature at Madras

Dated : 13.7.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.23856 to 23859 of 2016
& WMP.Nos.20473 to 20476 of 2016

Tvl. K.R.C.Housing & Infrastructure
Company, rep.by its Manager
R.Arunachalam

...Petitioner in
WP.23856/2016

Tvl. T & P International Furnitures,
rep.by its Proprietrix Mrs.Tharani

...Petitioner in
WP.23857/2016

Tvl. Prasad & Co., rep.by its
Manager A.Prasad

...Petitioner in
WP.23858/2016

Tvl. K.R.C. & S.M.S. Housing, rep.
by its Manager R.Arunachalam

...Petitioner in
WP.23859/2016

Vs

1.The Commercial Tax Officer,
(Enforcement) Group-I,
Tirupur-641603.

...R1 in both WPs.
23856 & 23859 of
2016

2.The Commercial Tax Officer
(Enforcement), Tirupur South
Circle, Tirupur-641603.

...R1 in WP.No.
23857/2016

3.The Commercial Tax Officer
(Enforcement), Central II,
Tirupur-641603.

...R1 in WP.No.
23858/2016

4.The Assistant Commissioner (CT),
Tirupur (North) Circle, Tirupur.
Pin : 641603.

...R2 in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus seeking a (i) direction to the respondent forth with to return the 6 post-dated cheques collected from the petitioner on drawn on State Bank of India, Commercial Branch, Tirupur drawn on i) Cheque No.309005/22.7.2016 for Rs.6,65,919/-; ii) Cheque No.309006/24.8.2016 for Rs.1,80,510/-; iii) Cheque No.309007/26.9.2016 for Rs.20,00,000/-; iv) Cheque No.309008/21.10.2016 for Rs.20,00,000/-; v) Cheque No.309009/25.11.2016 for Rs.20,00,000/-; and vi) Cheque No. 309010/29.12.2016 for Rs.6,73,042/- for a total sum of Rs.75,19,471/- (WP. No.23856 of 2016); (ii) direction to the respondent forth with to return the post-dated cheque collected from the petitioner on 22.6.2016 drawn on Karur Vysya Bank Limited, Overseas Branch, Tirupur bearing Cheque No.000027 dated 22.7.2016 for a sum of Rs.5,09,238/- (WP.No.23857 of 2016); (iii) direction to the respondent forth with to return the post-dated cheque collected from the petitioner on 24.6.2016 drawn on Indian Overseas Bank, Velampalayam Branch, Tirupur bearing Cheque No.946915 dated 22.7.2016 for a sum of Rs.8,24,843/- (WP.No.23858 of 2016); and (iv) direction to the respondent forthwith to return the post-dated cheque collected from the petitioner on 24.6.2016 drawn on Karur Vysya Bank Limited, Velampalayam Branch, Tirupur bearing Cheque No.000560 dated 24.8.2016 for a sum of

Rs.18,19,490/- (WP.No.23859 of 2016).

For Petitioners : Mr.K.R.Krishnan
For Respondents : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioners, which are registered dealers on the file of the second respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, have filed these writ petitions seeking a direction to the respondents to return the respective post dated cheques, which were taken from the respective petitioners by the officials of the Enforcement Wing by compulsion.

3. This Court has repeatedly held that the officials of the Enforcement Wing cannot compel the dealers to issue post dated cheques for the proposed demand and all that they can do is to record a statement from the dealer. In the instant case, the respective first respondent appeared to have taken post dated cheques, the details of which are given below by way of a tabular column :

"WP.No.23856 of 2016 :

<i>S. No.</i>	<i>Cheque No. & Date</i>	<i>Amount in Rs.</i>
1	309005/22.7.2016	6,65,919/-
2	309006/24.8.2016	1,80,510/-

<i>S. No.</i>	<i>Cheque No. & Date</i>	<i>Amount in Rs.</i>
3	309007/26.9.2016	20,00,000/-
4	309008/21.10.2016	20,00,000/-
5	309009/25.11.2016	20,00,000/-
6	309010/29.12.2016	6,73,042/-
	<i>Total</i>	75,19,471/-

WP.No.23857 of 2016 :

<i>S. No.</i>	<i>Cheque No. & Date</i>	<i>Amount in Rs.</i>
1	000027/22.7.2016	5,09,238/-

WP.No.23858 of 2016 :

<i>S. No.</i>	<i>Cheque No. & Date</i>	<i>Amount in Rs.</i>
1	946915/22.7.2016	8,24,843/-

WP.No.23859 of 2016 :

<i>S. No.</i>	<i>Cheque No. & Date</i>	<i>Amount in Rs.</i>
1	000560/24.8.2016	18,19,490/-"

4. It is seen that the cheques were directed to be issued in the name of the second respondent and they have now been handed over to the second respondent.

5. In the light of the above, the writ petitions are disposed of with a direction to the second respondent to return the respective post dated cheques to the petitioners forthwith and thereafter proceed to issue notices to the petitioners and act in accordance with law. No costs. Consequently, the above WMPs are closed.

13.7.2016

RS

T.S.SIVAGNANAM,J

RS

Internet : Yes

To

- 1.The Commercial Tax Officer, (Enforcement) Group-I, Tirupur-641603.
- 2.The Commercial Tax Officer (Enforcement), Tirupur South Circle,
Tirupur-641603.
- 3.The Commercial Tax Officer (Enforcement), Central II, Tirupur-641603.
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