IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26178 of 2016

M/s.Sree Mahalakshmi Oil Mills,
Rep. by its Proprietor - S.Kanakaraj,
No.9/157-A1, Sarada Nagar,
Thimmampalayam, Karamadai - 641 104.
Coimbatore District. ... Petitioner

Vs.

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

2. The Commercial Tax Officer,
   (Enforcement), BTPS,
   Coimbatore, Coimbatore District. ... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the 1st respondent to return an amount of Rs.10,54,861/- forcibly collected vide Cheque bearing Nos.343678/30.06.2016 - Rs.3,54,861/-; 343679/ 30.07.2016 - Rs.3,50,000/- & 343680/30.08.2016 - Rs.3,50,000/- drawn on I.O.Bank, Karmadai Branch favouring 1st respondent from the petitioner at the time of inspection on 14.06.2016 by the officials of the 2nd respondent as per the representation dated 01.07.2016.

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

ORDER

Heard Mrs.R.Hemalatha, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner is a dealer in Pulses,Grams, Palm Oil, Sun Flower Oil & Oil Cake and registered as a dealer on the file of the 1st respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the petitioner seeks for a direction to direct the 1st respondent to return the cheques forcibly taken from the petitioner by the officials of the Enforcement Wing under the control of the 2nd respondent, when they conducted an inspection at the place of business of the petitioner on 14.06.2016. It is settled legal position that the Enforcement Wing Officials are not entitled to collect cheques from the petitioner and compel the petitioner to part with the cheques as against future liability.

3.In the instant case, it is stated that the 1st respondent has not passed any order of assessment/any notice was issued to the petitioner in this regard. The petitioner submitted representations on 14.06.2016 and 01.07.2016 requesting for return of the cheques and they also referred to a decision of this Court in the case of M/s.Kumar Commercial Agencies rep. By its Proprietrix V. Deputy Commercial Tax Officer, 1993 (4) MTCR 563. In spite of these representations, till date the cheques have not been returned. It is stated that as on date the cheques have been in the custody of the 1st respondent as it has been handed over to the 1st respondent by the 2nd respondent.

4.In the light of the above, there will be a direction to the 1st respondent to return the cheques which were taken from the petitioner by the 2nd respondent and simultaneously, issue notice to the petitioner and proceed with the assessment proceedings in accordance with law within a period of one week from the date of receipt of a copy of this order.

5.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sgl

To

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

2. The Commercial Tax Officer,
   (Enforcement), BTPS,
   Coimbatore,
   Coimbatore District.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.42434
+1cc to the Special Government Pleader(T), S.R.No.42592

W.P.No.26178 of 2016

LRS(CO)
CA(10/08/2016)