

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.29462 and 29463 of 2016
and
W.M.P.Nos.25502 to 25504 of 2016

Sri Arunachala Spinners,
rep. by its Proprietor Mr.Jayabal Petitioner in both WPs

Vs.

1. The Assistant Commissioner (CT)
Peelamedu South Assessment Circle,
Coimbatore.
2. The Coimbatore Tax Officer (Enf)
Kinathukkadavu Roving Squad,
Pollachi.
3. The Commercial Tax Officer (Enf)
Roving Squad - I, Coimbatore. Respondents
1 to 3 in both W.Ps
4. The Central Bank of India,
rep. by its Manager,
Kalapatti, Coimbatore - 641 014.

.... R-4 in W.P.No.29462 of 2016

Prayer in W.P.No.29462 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the first respondent in VAT No.33422102481/2016/A3, dated 15.06.2016, and to quash the same.

Prayer in W.P.No.29463 of 2016

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for records of the first respondent in Maku. Va.Sa. No.33422102481/2015-16, dated 28.07.2016, and to quash the same, and consequently, to direct the respondents to return the cheques bearing Nos.189650, 189648, 189649 and 189655 drawn on Central Bank of India, Kalapatti, Coimbatore - 641 014.

For Petitioner : Mr.S.Raveekumar

For Respondents 1 to 3 : Mr.S.Kanmani Annamalai
Additional Government Pleader

C O M M O N O R D E R

Heard M.S.Raveekumar, learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice for respondents 1 to 3. Since the issue involved in both the Writ Petitions are interconnected, these Writ Petitions are taken up together and disposed of by this common order.

2. The petitioner, who is a registered dealer, under the provisions of Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'TNVAT Act) on the file of the first respondent, has challenged the order of attachment of the petitioner's bank account, as well as the immovable property.

3. It is not in dispute that the Officials of the Enforcement Wing conducted a surprise inspection in the place of business of the petitioner on 02.05.2016. According to the petitioner, he was forcibly made to part away with four cheques. Two cheques are dated 30.05.2016, one cheque is dated 30.06.2010 and one cheque, dated 29.07.2016, and all for a sum of Rs.10,00,000/-. The cheques appears to have been forwarded by the Enforcement Wing Officials to the Assessing Officer/first respondent, and when the Assessing Officer presented the same for clearance, they were dishonored on account of insufficient funds. Therefore, the first respondent has straightaway proceeded to attach the petitioner's bank account, as also the immovable property.

4. It is settled legal position that, when Enforcement Wing finds certain defects, they will have submit a report to that effect to the Assessing Officer, who will initiate proceedings by issuing pre-revision notice.

5. The learned Additional Government Pleader, on instructions, submitted that till date, the report of the Enforcement Wing has not been received by the Assessing Officer. If that be the case, then, obviously, the first respondent should not have passed the impugned orders.

6. In the light of the above, the Writ Petitions are allowed, the impugned orders stand quashed, and there will be a

consequential direction to the first respondent to defreeze the petitioner's Bank account, and also return the four cheques, bearing Nos.189650, 189648, 189649 and 189655 to the petitioner. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (CT)
Peelamedu South Assessment Circle,
Coimbatore.
2. The Coimbatore Tax Officer (Enf)
Kinathukkadavu Roving Squad,
Pollachi.
3. The Commercial Tax Officer (Enf)
Roving Squad - I, Coimbatore.
4. The Manager,
Central Bank of India,
Kalapatti, Coimbatore - 641 014.

+2cc's to Mr.S.Raveekumar, Advocate, S.R.No.49691
+1cc to the Special Government Pleader(T), S.R.No.49496

Writ Petition Nos.29462 and 29463 of 2016

KS(CO)
CA(19/09/2016)

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