IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No. 32152 of 2016

Tvl. Akshayaa Yarn,
Rep by its proprietor,
B. Senthil Raja,
Shop No.7, M.S.S. Complex,
Uthukuli Road, Tirupur - 641 601,
Tirupur District. .. Petitioner

Versus

1. The Joint Commissioner (CT) (Enforcement),
C.T. Building,
Dr. Balasundaram Road,
Coimbatore - 641 018.

2. The Assistant Commissioner (CT),
Tirupur (Central-1) Assessment Circle,
Kumaran Road,
Tirupur - 641 601 .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to arrange to return back the cheque Nos. 543251 dated 30.09.2016 for Rs. 12,00,000/-; 543252 dated 25.10.2016 for Rs. 12,00,000/-; 543253 dated 15.11.2016 for Rs. 12,00,000/- and 543254 dated 26.12.2016 for Rs. 13,68,357/- totaling to Rs. 49,68,357/- issued on UCO Bank, Tirupur collected on the spot on 24.08.2016 contrary to the principle laid down by this Hon'ble Court in the judgement reported in (1992) 87 STC 513 (Hotal Bule Nile Vs. State of Tamil Nadu & Others).

For Petitioner : Mr.R.Senniappan
For Respondents: Mr.K. Venkatesh, GA [Taxes]

ORDER

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr. K.Venkatesh, learned Government Advocate accepting the notice on behalf of the respondents and with the consent on the either side, the writ petition is taken up for final disposal.

2.In this writ petition, the petitioner is a registered dealer on the file of the respondent and sought for a direction from this Court to direct the respondents to return the cheques which were collected by the 1st respondent during the course of inspection. Time and again, this Court has been reiterating the legal principle that the enforcement officials are not entitled to effect spot collections of tax as if it is an advance tax nor are they empowered to collect cheques from the dealer during the course of inspection.

3.One of the decisions in this regard, is in the case of Hotel Blue Nile Vs. State of Tamil Nadu & others (1992) 87 STC 513 (Madras). Following the said decision, several writ petitions have been allowed by this Court, directing the respondents therein to return the cheques. The case on hand, is no different from the other matters which were disposed of by earlier orders following the decision in Hotel Blue Nile's case [cited supra].

4.In the light of the above, there will be a direction to the respondents to return the cheque Nos. 543251 dated 30.09.2016 for Rs. 12,00,000/-; 543252 dated 25.10.2016 for Rs. 12,00,000/-; 543253 dated 15.11.2016 for Rs. 12,00,000/- and 543254 dated 26.12.2016 for Rs. 13,68,357/- totaling to Rs. 49,68,357/- issued on UCO Bank, Tirupur collected on the spot on 24.08.2016 and thereafter, the second respondent is directed to issue notice to the petitioner and proceed in accordance with law.

5.The writ petition is disposed of with the above directions. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Joint Commissioner (CT) (Enforcement),
C.T. Building,
Dr. Balasundaram Road,
Coimbatore - 641 018.

2. The Assistant Commissioner (CT),
    Tirupur (Central-1) Assessment Circle,
    Kumaran Road,
    Tirupur - 641 601.

+1 cc to Spl.Govt.Pleader,sr.52371

+1 cc to R.Senniappan,advocate,sr.52438.

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