

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32778/2004 & WP.MP.No.39681/2004

R.S.Agencies
No.16, S.P.Koil Street
Namakkal 637 01.

.. Petitioner

Vs.

- 1.The Commercial Tax Officer
No.16, Cooperative Colony,
Mohanur Road, Namakkal
[Town], Namakkal.
- 2.The Secretary to Government
State of Tamil Nadu
Department of Commercial Taxes and
Religious Endowments
Fort St George, Chennai 600 009.
- 3.The Secretary
Union of India,
Ministry of Finance
Department of Revenue
New Delhi.

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of declaration declaring that the 2nd respondent, State of Tamil Nadu and its officers and agents are incompetent either to legislate for or impose and realise a sales tax under any power conferred under serial No.54, List II, of the Seventh Schedule to the Constitution of India on the services provided by Cellular Mobile Telephone Service providers, operating under the license issued by the Department of Telecommunications, Ministry of Communications, Government of India, under section 4 of the Indian Telegraph Act, 1885 directly or through their distributors or agents like the petitioners by way air time charges, pre-paid or post paid subscription SIM card Charges, activation or processing fee embedded in the starter pack or prepaid packages and that resultantly the demands and notices requiring payment such taxes under the provisions of the Tamil Nadu General Sales Tax Act, 1959, are ultra vires Article 265, 269[3], 286 and 366/29-A and violative of Articles 14, 19(1)(g) and 300A of the Constitution of India.

For Petitioner : No appearance

For RR 1 & 2 : Mr.Manokaran Sundaram, AGP

ORDER

The petitioner has filed the present writ petition challenging the notice calling upon the petitioner to submit his objections to the proposal made therein.

2.The petitioner has not made out any case to quash the impugned notice. Furthermore, it is not known as to what transpired after 2004 since in this writ petition, no interim order was granted. Hence, the writ petition is dismissed. However, it is open to the petitioner to submit their objection to the notice within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the miscellaneous petition is also dismissed.

sgl

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

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[Town], Namakkal.
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State of Tamil Nadu
Department of Commercial Taxes
Fort St George, Chennai 600 009.
- 3.The Secretary
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New Delhi.

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