

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM:

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

W.P.No.33686 of 2016
and
W.M.P.No.29067 of 2016

S.Thangaraj ..Petitioner
/vs/

- 1.The Assistant Commissioner,
(Commercial Taxes),
Avinashi Assessment Circle,
Avinashi 641 654.
- 2.The Commercial Tax Officer,
Gudalur Assessment Circle,
Gudalur.
- 3.The Deputy Commercial Tax Officer,
Tiruppur Central II Circle,
Tiruppur.
- 4.The Branch Manager,
Union Bank of India,
P.H.Road, Tiruppur 641 602. ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 herein to return to the petitioner the Cheque bearing Nos.130613 to 130616 drawn on the 4th respondent Bank and collected by the respondents 2 and 3 herein from the petitioner.

For petitioner :Mr.Mr.K.Govi Ganesan

For respondents :Mr.S.Kanmani Annamalai,AGP

ORDER

Heard Mr.K.Govi Ganesan, learned counsel appearing for the petitioner and Mrs.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 to 3.

2. In this Writ Petition, the petitioner seeks a direction on respondents 1 to 3 to return the cheques bearing Nos. 130613 to 130616, which were seized by the Enforcement Wing Officers.

3. Time and again, this Court has held that the Enforcement Wing Officers are not entitled to collect cheques from the dealers, as if it is an advance tax payment. Therefore, wherever such collection is made and handed over to the Assessing Officer, directions have been issued for return of the cheques seized by the Enforcement Wing Officers. One such decision is in the case of M/s Astek Electricals and Controls Vs. A.C.(CT), Ranipet, Vellore District [reported in (2014) 67 VST 321 (Mad.)], which has been followed in several decisions including the W.P.No.34297 of 2015 dated 02.11.2015 (Tvl.Yogesh Garments Vs. CTO, Trichy Road Circle, Coimbatore and 2 others).

4. It appears that one of the cheques has already been encashed and the petitioner seeks for return of remaining cheques, which have not been presented for encashment.

5. Accordingly, the writ petition is disposed of by directing respondents 1 to 3 to return the cheques bearing Nos.130613 to 130616 to the petitioner, within a period of one week from the date of receipt of a copy of this order and within such time, they are not entitled to present the cheques for encashment. No costs. Consequently, the above WMP is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

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To

1.The Assistant Commissioner,(Commercial Taxes),
Avinashi Assessment Circle, Avinashi 641 654.

2.The Commercial Tax Officer, Gudalur Assessment Circle,
Gudalur.

3.The Deputy Commercial Tax Officer,
Tiruppur Central II Circle, Tiruppur.

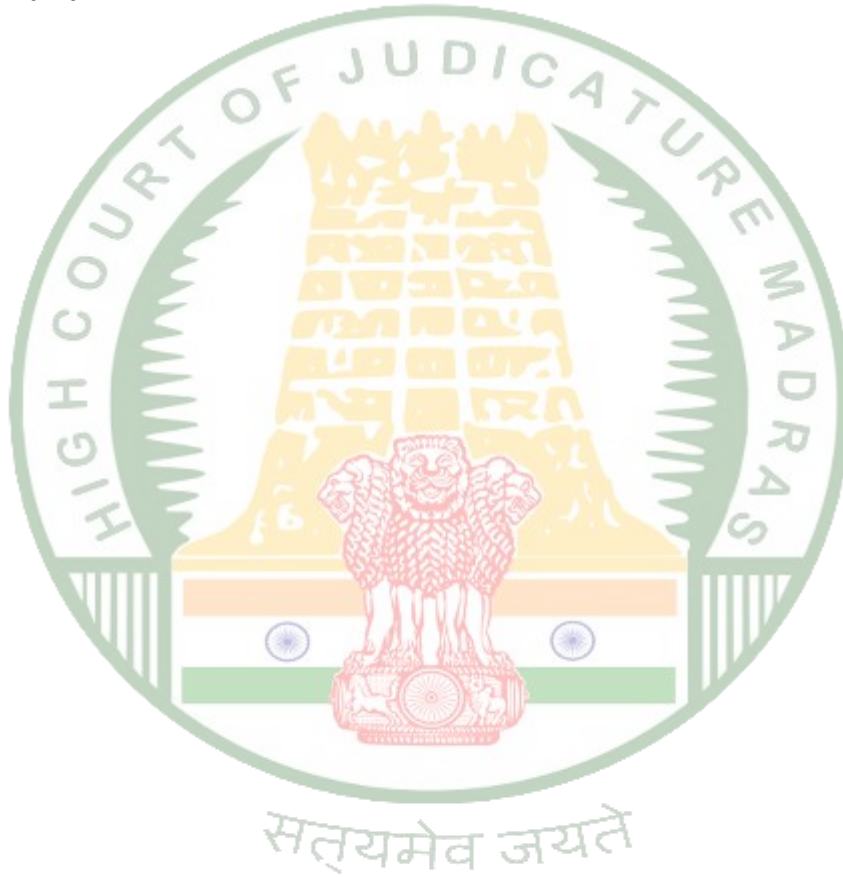
4.The Branch Manager,
Union Bank of India, P.H.Road, Tiruppur 641 602.

1 cc to Mr.K.Govi Ganesan, Advocate, sr.54974

1 cc to Special Government Pleader, sr.54704

W.P.No.33686 of 2016

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