IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34169 of 2016

M/s Deepam Printer
rep. by its partner
Mr.T.Suresh .. Petitioner

vs.

1.The Assistant Commissioner (CT)
Avinashi Assessment Circle
Avinashi.

2.The Commercial Tax Officer (Enf)
Enforcement Group (VI)
Coimbatore.
.. Respondents in both W.Ps

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the 1st and 2nd Respondents to arrange to return back the collection of two cheques bearing Nos.155619 dated 1.9.2016 for a value of Rs.94,677/- and 155624 dated 25.9.2016 for a value of Rs.98,176/-, issued by Central Bank of India, Tirupur Branch as the cheques being collected contrary to the principles laid down by this Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs. State of Tamil Nadu & Others).

For Petitioner : Mrs.P.Aruna Devi

For Respondents : Mr.K.Venkatesh
Govt. Advocate (Taxes)

O R D E R

Heard Mrs.P.Aruna Devi, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes) appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.The petitioner-Partnership Firm, which is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], has approached this Court for a direction to the respondents to return the cheques which were collected by the Enforcement Wing Officials, during the course of inspection conducted in the place of business of the petitioner-Firm on 30.08.2016. It appears that pursuant to such inspection, a statement was recorded from the partner of petitioner Firm and two cheques were collected by the second respondent on 01.09.2016 and handed over to the first respondent.

3.As early as in the year 1992, this Court, in the case of Hotel Blue Nile Vs. State of Tamil Nadu (Mad.), [(1992) 87 STC 513], held that the collection of cheques by the Enforcement Wing Officials, is without jurisdiction. This view has been consistently followed in several decisions of this Court. Thus, the action of the second respondent, in collecting the cheques from the petitioner is without jurisdiction.

4.In the light of the above legal position, there will be a direction to the first respondent to return the two cheques, collected from the petitioner, within a period of three days from the date of receipt of a coy of this order.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT)
Avinashi Assessment Circle
Avinashi.

2.The Commercial Tax Officer (Enf)
Enforcement Group (VI)
Coimbatore.

+1cc to Mr.P.Rajkumar, Advocate Sr.52279
+1cc to the Government Pleader Sr.55631

W.P.No.34169 of 2016

ctk[co]
srg 30/09/2016