IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.35235 of 2016

M/s.A.S.Textiles, rep.by its
Proprietor Mr.G.Arumugam ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Tirupur Central-I Assessment
Circle, Tirupur.

2.The Commercial Tax Officer
(Enf.), Central Enforcement
Wing-II, Coimbatore. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the first and second respondents to arrange to return back the collection of five cheques bearing Nos.000154 dated 30.9.2016 for a value of Rs.4,08,441/-; 000155 dated 30.10.2016 for a value of Rs.5,00,000/-; 000156 dated 30.11.2016 for a value of Rs.5,00,000/-; 000157 dated 30.12.2016 for a value of Rs.5,00,000/- and 000158 dated 30.1.2017 for a value of Rs.5,00,000/- issued by Karur Vyasya Bank, Tirupur as the cheques being collected.

For Petitioner : Ms.P.Aruna Devi
For Respondents: Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and is a trader in cotton cone yarn and cloth, etc. The petitioner has filed this writ petition seeking a direction to the respondents to return the cheques taken from the petitioner during the inspection conducted by the second respondent in the place of business of the petitioner on 19.9.2016 at 6 PM.

3. Time and again, this Court held that the officials of the Enforcement Wing cannot collect cheques or even collect tax in the nature of advance tax and this practice has been deprecated and the leading decision on this point is in the case of Hotel Blue Nile Vs. State of Tamil Nadu & Others [reported in (1992) 87 STC 513].

4. In the light of the law laid down by this Court in the said decision, the action of the second respondent in retaining the cheques issued by the petitioner is not sustainable.

5. Accordingly, the writ petition is allowed and there will be a direction to the second respondent to return the cheques in question within a period of two days from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

RS

To
1.The Assistant Commissioner (CT),
Tirupur Central-I Assessment Circle,
Tirupur.

2.The Commercial Tax Officer (Enf.),
Central Enforcement Wing-II,
Coimbatore.

+1cc to Mr.Special Government Pleader, S.R.No.57415
+1cc to Mr.P. Rajkumar, Advocate, S.R.No.57299

MSM(CO)
EU(07/10/2016)