

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.3567 of 2016 and
W.M.P.No.2935 of 2016

M/s.Sri Ganesh Timbers
rep by its Proprietor K.Karuppusamy,
16/22, S.P.N.Street,
Mill Road, Coimbatore - 641 001. ... Petitioner

Vs.

- 1.The Commercial Tax Officer,
Enforcement Wing, Coimbatore.
- 2.The Assistant Commissioner (CT),
Oppanakkara Street Circle,
Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to forbear the respondent to use or misuse the illegally acquired cheques and refund the encashed sum of Rs.3,97,130/- vide DD bearing No.508976 dated 23.12.2015 and blank letter heads.

For Petitioner : Mr.M.K.S.Sundar

For Respondents: Mr.Manoharan Sundaram,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus to forbear the respondent to use or misuse the illegally acquired cheques and refund the encashed sum of Rs.3,97,130/- vide DD bearing No.508976 dated 23.12.2015 and blank letter heads.

2.It is the case of the petitioner that the respondent collected the cheques to the tune of Rs.13,60,630/- on 27.04.2015 and encashed a sum of Rs.3,97,130/- and took blank letter heads without even producing any official communication.

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that the respondent had obtained the cheques without any assessment order.

4.Having regard to the submissions made by the learned counsel on either side, I am of the view that since the respondent had obtained the cheques even without any order being passed as against the petitioner, he has no authority to hold the cheques and the amount encashed to the tune of Rs.3,97,130/-. Accordingly, I direct the 1st respondent not to use the acquired cheques and also I direct the 1st respondent to refund the encashed sum of Rs.3,97,130/- and to return the blank letter heads obtained from the petitioner and also the cheques received from the petitioner within one week from the date of receipt of a copy of this order.

5.The learned counsel for the petitioner submitted that the respondent had freezed the account of the petitioner.

6.If it is so, the respondent is directed to raise the order of attachment and permit the petitioner to operate the account.

7.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

va

To

1.The Commercial Tax Officer,
Enforcement Wing, Coimbatore.

2.The Assistant Commissioner (CT),
Oppanakkara Street Circle,
Coimbatore.

+ 1 cc to Mr.M.K.S.Sundar, Advocate Sr 1632 (5/2/16)

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RSY (CO)
EU 4.2.16