

In the High Court of Judicature at Madras

Dated : 08.11.2016

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No.38856 of 2016 &
WMP.Nos.33306 & 33307 of 2016

M/s. Vaishnavidevi Textiles, Tirupur
Pvt.Ltd., rep.by its Director S.Vivek ...Petitioner

Vs

- 1.The Joint Commissioner (CT),
Enforcement Wing, Coimbatore.
- 2.The Assistant Commissioner (CT),
Lakshmi Nagar Assessment
Circle, Tirupur.
- 3.The Branch Manager, Axis Bank,
Court Street, Tirupur-1. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the 2nd respondent in Rc.No.33112504765/A3 dated 14.10.2016 attaching the Axis Bank, Court Road, Tirupur Account for no valid demand, quash the same as being without jurisdiction and authority of law and further directing the 1st and 2nd respondents to arrange to return back the Tirupur Axis Bank Cheque No.592080 dated 20.9.2016 for a value of Rs.6,49,645/- collected by the first respondent on the spot on 1.9.2016 as being 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 :Mr.R.Senniappan

For Respondents 1 & 2 :Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for respondents 1 and 2. In view of the limited nature of relief this Court intends to grant, the writ petition itself is taken up for final disposal without ordering notice to the third respondent.

2. In this writ petition, the petitioner seeks to quash the order of the second respondent attaching the petitioner's bank account and to return the cheques, which were collected from the petitioner by the Enforcement Wing Officials of the respondent Department while inspecting the place of business.

3. The issue is as to whether the Inspecting Officers are entitled to collect cheques from the assessee came up for consideration before this Court, first of which being in the case of Hotel Blue Nile Vs.State of Tamil Nadu & Others [reported in (1992) 87 STC 513] wherein it has been held that the Inspecting Officers are not entitled to collect cheques from the dealers during the course of inspection as if they are towards advance tax. This view has been consistently followed by this Court and directions were issued for return of cheques.

4. Following the said decision, the writ petition is disposed of with a direction to respondents 1 and 2 to return the cheques, which were collected from the petitioner within a period of one week from the date of receipt of a copy of this order. Till such time, the cheques shall not be presented for collection. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Joint Commissioner (CT),
Enforcement Wing, Coimbatore.

2.The Assistant Commissioner (CT),
Lakshmi Nagar Assessment Circle,
Tirupur.

3.The Branch Manager,
Axis Bank, Court Street,
Tirupur-1.

+1cc to Mr.R.Senniappan, Advocate SR.63667
+1cc to the Special Government Pleader SR.64074

WP.No.38856 of 2016 &
WMP.Nos.33306 & 33307 of 2016

ak[co]
srg 01/12/2016