IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.39205/2016 & WMP.No.33580/2016

Tvl.Vil Internantional Private
Ltd., rep.by its Managing Director
Mr.K.V.Satya Rao, No.AE 109,
10th Main Road, Anna Nagar
Chennai-40. .. Petitioner

Vs

The Commercial Tax Officer
BTPS, Central Enforcement Wing-I
Chennai-6. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to return the cheques drawn on the Kotak Mahindra Bank, Teynampet, Chennai 600 018 bearing Numbers 000033, 000034, 000035 and 000037 dated 04.11.2016 for a total amount of Rs.88,68,362/- collected by the respondent from the petitioner on 04.11.2016.

For Petitioner : Mr.Mohammed Shaffiq
For Respondent : Mr.K.Venkatesh, GA

ORDER

Heard Mr.Mohammed Shaffiq, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner is a dealer in Timbers and registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, [TNVAT Act]. In this writ petition, the petitioner seeks for the return of the cheques collected from the petitioner by the respondent during the course of surprise inspection conducted during the period from 01.11.2016 to 04.11.2016 in the business premises of the petitioner.

3 The settled legal position is that the officers of the Enforcement Wing of the Commercial Tax Department, while conducting inspection in the premises of the dealer, are not expected to collect cheques from the dealer as if towards payment of advance tax. The earliest decision on this point is in the case of Hotel Blue Nile Vs. State of Tamilnadu and others reported in [1992] 87 STC 513. This view has been consistently followed by this Court in several decisions including in the case of Muragents Vs. Commercial Tax Officer, Mannargudi and others reported in 61 VST 35. Therefore, it has to be necessarily held that the action of the 1st respondent in collecting cheques from the petitioner is without jurisdiction.

4 Accordingly, the respondents are directed to return the cheques bearing Nos. 000033, 000034, 000035 and 000037 collected from the petitioner on 04.11.2016 within a period of one week from the date of receipt of a copy of this order. It is made clear that till the cheques are returned to the petitioner, they shall not be presented for encashment by the respondent.

5 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

AP
To

The Commercial Tax Officer
BTPS, Central Enforcement Wing-I
Chennai-6.

+1cc to the Special Government Pleader Sr.64328
+1cc to M/S.Mohammed Shaffiq, Advocate sr.64059

WP.No.39205/2016

nr[co]
srg 05/12/2016