In the High Court of Judicature at Madras

Dated : 29.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.41814 of 2016

M/s.Rohith Garments, rep.by
its Proprietor R.Mathiyalagan ...Petitioner

Vs

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

2.The Commercial Tax Officer
(Enforcement), Group II,
Tirupur. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to arrange to return back the cheque bearing Nos.559481 to 559483 dated 20.10.2016, 20.11.2016 and 20.1.2017 and cheque Nos.559475 dated 20.12.2016 and 559477 dated 20.2.2017 issued by Corporation Bank Tirupur - SME Branch for a total value of Rs.65,00,000/- collected on the spot on 29.9.2016 despite principle laid down by this Honourable 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 : Mr.K.Venkatesh, GA

ORDER

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

2. In this writ petition, the petitioner seeks a direction to the respondents to return the five cheques, which were collected during the course of inspection of the business premises of the petitioner.

3. As early as in the year 1992, this Court, in the case of Hotel Blue Nile Vs. State of Tamil Nadu [reported in (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, the writ petition is disposed of with a direction to the respondents to return the five cheques collected from the petitioner with liberty to the first respondent to proceed further in accordance with law, pursuant to the inspection, which was conducted in the business premises of the petitioner. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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

2.The Commercial Tax Officer
(Enforcement), Group II,
Tirupur.

+1cc to Mr.R. Senniappan, Advocate, S.R.No.69960
+1cc to the Special Government Pleader (Taxes), S.R.No.70062

ug(CO)
md(01/12/2016)

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