In the High Court of Judicature at Madras

Dated : 30.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.41974 to 41976 of 2016

M/s.Sri Panna Jee Impex, rep. by Mrs.Premdevi Ghosal, Proprietrix	...Petitioner in WP.41974 of 2016
M/s.Sri Tulshi Clothing Company Pvt.Ltd., rep.by Ashok Kumar Jain, Managing Director	...Petitioner in WP.41975 of 2016
M/s.Sri Tulshi Enterprises, rep. by Ashok Kumar Jain, Proprietor	...Petitioner in WP.41976 of 2016

Vs

1.The Commercial Tax Officer (Enforcement), Group II, Coimbatore.	...R1 in all the WPs
2.The Assistant Commissioner (CT), Tirupur Bazaar Assessment Circle, Tirupur.	...R2 in WP.Nos. 41974 & 41975 of 2016
3.The Assistant Commissioner (CT), Tirupur Central II Assessment Circle, Tirupur.	...R2 in WP.No. 41976 of 2016

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing the respondents (i) to return the four cheques bearing cheque Nos.002394/28.11.2016 for Rs.3,00,000/-, 002395/28.12.2016 for Rs.3,00,000/-, 002396/ 28.1.2017 for Rs.3,00,000/- and 002399/28.3.2017 for Rs.1,35,354/- to the petitioner (WP.No.41974 of 2016); (ii) to return the 8 cheques bearing cheque Nos.048423/28.1.2017 for Rs.5,00,000/-, 048421/28.2.2017 for Rs.5,00,000/-, 001452/20.3.2017 for Rs.4,38,248/-, 048415/28.11.2016 for Rs.10,00,000/-, 048416/ 28.12.2016 for Rs.20,00,000/-, 001454/28.1.2017 for Rs.10,00,000/-, 048419/28.2.2017 for Rs.10,00,000/- and 001453/20.3.2017 for Rs.10,71,807/- to the petitioner (WP.No.41975 of 2016) and (iii) to return the 5 cheques bearing cheque

Nos.028572/28.11.2016 for Rs.3,00,000/-, 028568/ 28.12.2016 for Rs.3,00,000/-, 028569/28.1.2017 for Rs.3,00,000/-, 028573/28.2.2017 for Rs.3,00,000/- and 028570/20.3.2017 for Rs.3,03,181/- to the petitioner (WP.No.41976 of 2016).

For Petitioners : Mr.V.Srikanth
For Respondents : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. In these writ petitions, the petitioners seek a direction to the respondents to return the cheques, which were collected during the course of inspection of the business premises of the respective 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 first respondent in collecting the cheques from the petitioner is without jurisdiction.

4. In the light of the above legal position, the writ petitions are disposed of with a direction to the respondents to return the cheques collected from the respective petitioner with liberty to the second respondent to proceed further in accordance with law, pursuant to the inspections, which were conducted in the business premises of the respective petitioner. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To
1.The Commercial Tax Officer (Enforcement), Group II, Coimbatore.
2.The Assistant Commissioner (CT), Tirupur Bazaar Assessment Circle, Tirupur.
3.The Assistant Commissioner (CT), Tirupur Central II Assessment Circle, Tirupur.
+3 cc's to Mr.C.Venkataraman,advocate,sr.70271
+1 cc to Spl.Govt.Pleader,sr.70618.
ug(co)
krd 7/12

WP.Nos.41974 to 41976
of 2016