

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.42202 & 42203 of 2016

M/s.Tirupati Knit Wears, rep.by
its Proprietor Mr.Ajay Ganeriwal

... Petitioner in
WP.42202 of 2016

M/s.Amarratva Knit Wears, rep.
by its Proprietor Mr.Ajay Ganeriwal

... Petitioner in
WP.42203 of 2016

Vs

1. The Assistant Commissioner (CT),
Tirupur North Assessment Circle,
Tirupur. ...R1 in WP.42202 of 2016
2. The Assistant Commissioner (CT),
Tirupur Central II Assessment
Circle, Tirupur. ...R1 in WP.42203 of 2016
3. The Commercial Tax Officer
(Enforcement), Group II,
Tirupur. ...R2 in both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing respondents 1 and 2 (i) to return back the three cheques bearing Nos.896579 dated 30.11.2016 for a value of Rs.2,00,000/-, 896580 dated 30.12.2016 for a value of Rs.7,65,175/- and 896581 dated 30.1.2016 for a value of Rs.7,65,175/- issued by Axis Bank Ltd, Tirupur as the cheques being collected contrary to the principle laid down by this Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs. State of Tamil Nadu & Others) (WP.No.42202 of 2016); and (ii) to return back the three cheques bearing Nos.001151 dated 30.11.2016 for a value of Rs.1,00,000/-, 001152 dated 30.12.2016 for a value of Rs.1,46,247/- and 001153 dated 30.1.2016 for a value of Rs.1,46,247/- issued by Bank of Baroda Tirupur as the cheques being collected contrary to the principle laid down by this Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs. State of Tamil Nadu & Others) (WP.No.42203 of 2016).

For Petitioners : Ms.R.Aruna Devi
For Respondents : Mr.K.Venkatesh,
Government Advocate

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 second respondent respondent in collecting the cheques from the petitioners 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 respective first 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/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Assistant Commissioner (CT),
Tirupur North Assessment Circle,
Tirupur.
- 2.The Assistant Commissioner (CT),
Tirupur Central II Assessment Circle,
Tirupur.

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

+2cc's to Mr.P.Rajkumar, Advocate, S.R.No.71070 (7.12.2016)
+1cc to the Special Government Pleader(T), S.R.No.71001

W.P.Nos.42202 & 42203 of 2016

PPA (CO)
CA(02/12/2016)



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