IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.42406/2016 & WMP.No.36290/2016

M/s.Vinod Steels rep.by
its Proprietor C.Siluvainayagam
37, PN Palayam Road, K.R.Puram
Coimbatore-6. .. Petitioner

Vs

1.The Commercial Tax Officer
[ENF] Group [V], Commercial
Taxes Buildings, Coimbatore-18.

2.The Assistant Commissioner [CT]
avarampalayam Circle,
Commercial Taxes Building,
Coimbatore-18. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to return the cheque bearing No.008208 dated 24.11.2016 for Rs.2,00,000/- ; Cheque No.008209 dated 26.12.2016 for Rs.3,00,000/-, Cheque No.008210 dated 23.01.2017 for Rs.3,00,000/-, Cheque No.008211 dated 23.02.2017 for Rs.3,00,000/-, Cheque No.008212 dated 10.03.2017 for Rs.3,00,000/- and Cheque No.008213 dated 23.03.2017 for Rs.2,15,480/- totalling to Rs.16,15,480/- drawn on State Bank of India, Ganapathy Branch, Coimbatore to the petitioner which was collected pursuant to the statement dated 23.11.2016 and also direct the respondents not to present the above cheques for encashment to the Bank.

For Petitioner	:	Mr.S.Ramanathan
For Respondent	:	Mr.K.Venkatesh, GA

ORDER

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

2 The petitioner is a dealer in iron and steel and registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, [TNVAT Act] as well as under the Central Sales Tax Act [TNGST Act]. In this writ petition, the petitioner seeks for the return of the cheques collected from the petitioner by the respondents during the course of surprise inspection conducted on 21.11.2016 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 respondents in collecting cheques from the petitioner is without jurisdiction.

4 Accordingly, the respondents are directed to return the cheques bearing Nos.008208, 008209, 08210, 008211, 008212 and 008213 collected from the petitioner on 21.11.2016 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 respondents.

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

02.12.2016

NOTE:Issue order copy on 05.12.2016.
AP

T.S.SIVAGNANAM, J.
AP

To
1.The Commercial Tax Officer
[ENF] Group [V], Commercial
Taxes Buildings, Coimbatore-18.

2.The Assistant Commissioner [CT]
Avarampalayam Circle,
Commercial Taxes Building,
Coimbatore-18.

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