

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.6171 of 2016 and
W.M.P.No.5512 of 2016

M/s.Ravi Collection
rep by its Proprietor S.Ravi
No.26-C, Railway Line, Chekkaan Thottam,
Ganapathy Post,
Coimbatore - 641 006.

... Petitioner

Vs.

1. The Commercial Tax Officer,
Enforcement Wing,
Ganapathy Circle, Coimbatore.

2. The Assistant Commissioner (CT),
Group - VII,
Ganapathy Circle, Coimbatore.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus forbearing the respondent to use or misuse the illegally acquired cheques bearing nos.241511, 241512 and 241513 and drawn on ICICI bank for a sum of Rs.38,95,446/- Coimbatore and return the encashed sum of Rs.5,00,000/- bearing cheque no.241514 dated 24.11.2015 blank letter heads forcibly obtained from the petitioner and direct the respondent not to attach the bank accounts of the petitioner current account nos.615205500496 of ICICI Bank Ram Nagar Branch and State Bank of India Account No.335120992578 of Coimbatore Branch and blank letter heads pending disposal of the Writ Petition.

For Petitioner : Mr.M.K.S.Sundar

For Respondents : Mr.S.Kannmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus forbearing the respondent to use or misuse the illegally acquired cheques bearing nos.241511, 241512 and 241513

and drawn on ICICI bank for a sum of Rs.38,95,446/- Coimbatore and return the encashed sum of Rs.5,00,000/- bearing cheque no.241514 dated 24.11.2015 blank letter heads forcibly obtained from the petitioner and direct the respondent not to attach the bank accounts of the petitioner current account nos.615205500496 of ICICI Bank Ram Nagar Branch and State Bank of India Account No.335120992578 of Coimbatore Branch and blank letter heads pending disposal of the Writ Petition.

2.It is the case of the petitioner that the 2nd respondent forcibly collected post dated cheques to the tune of Rs.38,95,446/- and also had taken a statement of the petitioner forcibly in the surprise inspection conducted by the 2nd respondent.

3.The learned counsel for the petitioner submitted that since the 2nd respondent had forcibly obtained the cheques, they might misuse the same, even without any assessment order being passed by them. Further, the learned counsel submitted that in similar circumstances, this Court, in W.P.No.3567 of 2016 dated 04.02.2016, had directed the respondent to return the cheques obtained by them forcibly from the petitioner therein.

4.Mr.S.Kannmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondents submitted that the 2nd respondent may be directed to return the cheques obtained from the petitioner and in the event of the respondent having presented the cheques for collection and realised the money, the question of refund can be considered after passing of the assessment order.

5.Having regard to the submissions made by the learned counsel on either side, taking into consideration the order passed by this Court in W.P.No.3567 of 2016 dated 04.02.2016, I direct the 2nd respondent not to use the cheques obtained from the petitioner and further direct the 2nd respondent to return the cheques to the petitioner, if it is not presented for collection. In the event of the cheques being presented for collection, the question of refund shall be decided by the 2nd respondent after passing of the assessment order. In the event of any excess amount lying with the 2nd respondent, the 2nd respondent shall return the same to the petitioner after the passing of the assessment order.

6.With these observations, the Writ Petition is disposed of.
No costs. Consequently, the connected miscellaneous petition is closed.

va

-s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer,
Enforcement Wing,
Ganapathy Circle, Coimbatore.

2. The Assistant Commissioner (CT),
Group - VII,
Ganapathy Circle, Coimbatore.

+ 1 cc to M/s.M.K.S.Sudnar, Advocate SR 10969

+ 1 cc to Spl.Govt.Pleader(Taxes) SR 10861

ak(co)
prk23/2

W.P.No.6171 of 2016 and
W.M.P.No.5512 of 2016



WEB COPY