IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.7842 of 2016

Messrs. SriSrinivasa Spinning Mills
A Proprietrix Concern
Rep. by its Proprietrix C.Vennila
W/o. Chinnasamy
Door No.96-G, Avinashi Road
Annur-641 653 .. Petitioner

v.

1 The Commercial Tax Officer
(Enf) Group III
Tirupur

2 The Assistant Commissioner (CT)
Avinashi Assessment Circle
Avinashi .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondents to return the three numbers of cheques dated 2.11.2015 amounting to Rs.3,02,308/- and direct the second respondent not to proceed with any collection proceedings till statutory demand is raised after following the principles laid down in the assessment procedures prescribed under the VAT Act.

For Petitioner : Mr.L.Chandrakumar
for Mr.H.Monojin

For Respondent : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader

ORDER

The petitioner has filed the above writ petition to issue a Writ of Mandamus to direct the respondents to return three cheques dated 02.11.2015 amounting to Rs.3,02,308/- and direct the second respondent not to proceed with any collection proceedings till statutory demand is raised after following the principles laid down in the assessment procedures prescribed under the Tamil Nadu Value Added Tax Act.

2. It is the case of the petitioner that the Enforcement Wing, at the time of inspection, had obtained three cheques from the petitioner without any assessment order being passed against the petitioner.

3. Mr.L.Chandrakumar, learned counsel appearing for the petitioner, submitted that this court in W.P.(MD)No.19361 of 2015, dated 27.10.2015, had directed to return the cheques obtained by the respondents therein, since they were obtained by the Enforcement Wing, which is against provisions of law. The learned counsel further submitted that the petitioner's bank account was attached by the respondents without any order of assessment.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader, takes notice for the respondents and submitted that the judgement relied upon by the learned counsel for the petitioner in W.P.(MD)No.19361 of 2015 is squarely applies to the facts and circumstances of the present case.

5. Following the order passed in W.P.(MD)No.19361 of 2015, I direct the respondents to return the above said three cheques dated 02.11.2015 obtained from the petitioner, within a period of one week from the date of receipt of a copy of this order. Since attachment has been passed without any order of assessment, the attachment made by the respondents is liable to be raised. Accordingly, the attachment of the petitioner's bank out has been raised.

With this observation, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Commercial Tax Officer
(Enf) Group III
Tirupur

2 The Assistant Commissioner (CT)
Avinashi Assessment Circle
Avinashi

+1 cc to Mr.H.Manojin, Advocate, sr.13330
+1 cc to M/s.Special Government Pleader, sr.13400

sr co, kra 10.03.2016