In the High Court of Judicature at Madras

Dated : 02.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.8243 of 2016 and WMP.Nos.7348 of 2016

Port and Dock Labour Union,
rep.by its General Secretary
R.Santhanam ...Petitioner

Vs

1.The Union of India, rep.by its
Secretary, Ministry of Shipping,
No.1, Parlimentary Street,
New Delhi-110001.

2.Chennai Port Trust, rep.by its
Chairman, Rajaji Salai, Chennai-1.

3.The Financial Adviser and Chief
Accounts Officer, Chennai Port
Trust, Rajaji Salai, Chennai-1.

4.The Central Board of Direct Taxes,
Government of India, Ministry of
Finance, Department of Revenue,
Central Secretariat, North Block,
New Delhi-110001.
(R4 impleaded as per order dated 23.8.2016
by MDJ in WMP.No.10017 of 2016 ...Respondents
in WP 8243/2016)

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus forbearing the 2nd and 3rd Respondents herein from in any manner deducting or recovering income tax from the petitioner union members taking into the account 13 month salary for the financial year 2015-2016 (prayer amended vide order dated 02.6.2016 in WMP.No.13284 of 2016 by TSSJ).

For Petitioner	:	Ms.Subhalaxmi Samanta
For Respondent-1	:	Mr.D.Rameshkumar, ACGSC
For Respondents 2 & 3	:	Dr.Anita Sumanth
For Respondent-4	:	Mr.S.Rajasekar for Mr.J.Narayanaswamy

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a trade union consisting of members, who are employees of the Chennai Port Trust. In this writ petition, the petitioner seeks the issuance of a Writ of Mandamus to forbear respondents 2 and 3 from in any manner deducting or recovering income tax from the members of the petitioner union taking into account the 13th month salary for the financial year 2015-2016.

3. The learned counsel for the petitioner does not dispute the fact that already deductions have been made and in effect, the prayer sought for has become infructuous.

4. However, it is the grievance of the petitioner, which is raised on behalf of its members - the workers employed in the Chennai Port Trust, is that such deduction would cause huge loss to the employees, more particularly those, who are in the verge of retirement.

5. It is seen that representations were given by the union to the management to drop the proposal for deducting income tax for 13 months and issue revised working sheet for 12 months. As already pointed out, the deductions have already been made and the tax has been collected and would have been remitted to the Department. Therefore, at this juncture, the question of issue of a Writ of Mandamus as sought for does not arise, more particularly when the Court cannot injunct the employer from deducting income tax.

6. However, the pattern of deduction adopted, if found to be incorrect, then the workmen/employees are entitled to approach the Authorities concerned for appropriate relief. However, this has to be examined by the Competent Authority of the Income Tax Department.

7. Faced with this situation, the learned counsel for the petitioner, on instructions, would submit that the petitioner union is willing to approach the concerned officer of the Income Tax Department and submit a representation and that the concerned Authority may be directed to consider the matter on merits and in accordance with law.

8. In the light of the above, while declining to grant the relief sought for, the writ petition is disposed of giving liberty to the petitioner to submit a representation to the Commissioner of Income Tax (TDS), setting out their grievances

and if such a representation is received by the Commissioner, the same shall be assigned to the Competent Officer of the Income Tax Department, who shall examine the same after affording an opportunity of personal hearing to the petitioner, take a decision, thereafter pass a speaking order and communicate the same to the petitioner. The above exercise shall be completed by the Department within a period of eight weeks from the date on which, the representation is made. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
1.The Secretary to Union of India,
Ministry of Shipping, New Delhi-110001.
2.The Chairman, Chennai Port Trust, Chennai-1.
3.The Financial Adviser and Chief Accounts Officer,
Chennai Port Trust,
Chennai-1.
4.The Central Board of Direct Taxes,
Government of India, Ministry of Finance,
Department of Revenue,
Central Secretariat, North Block,
New Delhi-110001.

1 CC to M/s. Samanta and Ston, Advocate, sr.29179
1 cc to Mr.D.Rameshkumar, Advocate, sr.29533
1 cc to Mr.J.Narayanasamy, Advocate, sr.29388
1 cc to Dr.Anitha Sumanth, Advocate, sr.29388

WP.No.8243 of 2016 &
WMP.No.7348 of 2016

lrs co
kra 16.06.2016