IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.P.No.16765 of 1998

The Tamil Nadu Post Graduate
Teachers Association
rep. by State Legal Secretary V.Ramadas ... Petitioner

Vs

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. State of Tamil Nadu,
rep. by its Secretary to Government,
Law Department,
Fort St. George,
Chennai 600 009.

3. The State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai 600 009.

4. The Director of School Education,
Chennai - 6 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of declaration to declare that the provisions of Tamil Nadu Tax on Professions, Traders, Calling and Employment Act 24 of 1992 (T.N.Act.24 of 1992) are not applicable to the members of the petitioner's Association if necessary declaring in particular section 3 of the said act as ultra vires and unconstitutional.

For Petitioner : Mr.C.Prakasam

For RR 1 to 4 : Mr.A.N.Thambidurai
Special Government Pleader

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner namely the Tamil Nadu Post Graduate Teachers Association represented by its State Legal Secretary made has filed this writ petition praying for declaration to declare that the provisions of Tamil Nadu Tax on Professions, Traders, Calling and Employment Act 24 of 1992 (T.N.Act.24 of 1992) are not applicable to their members and with a further prayer to declare it as ultra vires and unconstitutional.

2 Heard the submissions of Mr.C.Prakasam, learned counsel appearing for petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for respondent, who would submit that the vires of the Act has been upheld in the judgment reported in 1993 Writ Law Reporter 581 [K.M.Vijayan V.The Union of India represented by the Secretary to Government, Ministry of Law and Justive and Company Affairs, New Delhi and another] and it is relevant to extract the following portion of the said judgment :

> "The effect of the abovesaid amendment of Art.276(2) on the abovesaid Entry 60 of List II cannot be called a direct or substantial amendment. The said amendment is only beneficial to the States. Further, in the present, case as per Entry 60, the relevant tax is only on profession, trades, callings and employments and not on income which comes under Entry 82. Simply because Art.276(1) provides that no State law levying tax on such professions, etc., shall be valid on the ground that it relates to a tax on income, it does not mean that the tax contemplated under Entry 60 of List II is a tax on income."

3. In the light of the above cited decision, the writ petition stands dismissed. No costs.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1. The Secretary to Government,
   Municipal Administration and Water Supply Department,
   Fort St. George,
   Chennai - 600 009.

2. The Secretary to Government,
Law Department,
Fort St. George,
Chennai 600 009.

3. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai 600 009.

4. The Director of School Education,
Chennai - 6

+1 C.C. to the Govt. Pleader SR.NO.63378

WP.No.16765/1998

S.K
ADD 27.09.2017