

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.3399 of 2010
and M.P.No.2 of 2010
and
Crl.O.P.Nos.2077, 8481, 15880 to
15882, 13017 to 13020 of 2009
M.P.Nos.1 of 2009 in all Crl.O.Ps
M.P.No.3 in Crl.O.P.No.8481 of 2009

T.KASIRAMAN PETITIONER in wp.No.3399 of 2010
S/O.THANGASAMY PROPRIETOR M/S.PURE
INDUSTRIES NO.276 GANDHI ROAD T.R.
PATTINAM KARAİKAL.

T.K.RAGHAVAN

K.M.ABDUL GAFOOR

N.K.SUNDARAM

.... PETITIONERS IN CRL OP NO.2077,8481 OF 2009

K.E.REHMATH

... PETITIONER IN CRL OP NO.15880,13017,13019,
13020 OF 2009

K.M.ABDUL GAFOOR

... PETITIONER IN CRL OP NO.15881,15882,13018
OF 2009

Vs

- 1 THE GOVT. OF PONDICHERY
REP. BY ITS SECRETARY COMMERICAL TAX
DEPARTMENT PONDICHERY.
- 2 THE COMMISSIONER OF
COMMERCIAL TAX PUDUCHERRY.

3 THE COMMERCIAL TAX OFFICER
C.T. DEPARTMENT KARAIKAL.

... RESPONDENTS IN WP.3399 OF 2010

1 COMMERCIAL TAX OFFICER
COMMERCIAL TAX OFFICE MINI CIVIL STATION
MAIN ROAD MAHE

... RESPONDENT IN CRL OP NO.2077,8481,
15880 TO 15882, 13017 TO 13020 OF 2009

WP.NO.3399 OF 2010:filed under Article 226 of the Constitution of India to Call for the records pertaining to the order bearing No.2914/CTD/B4/2008 dt.26.6.2008 granting sanction for prosecution in respect of Revenue offence in contrast to the delegation of power by the Government of Pondicherry, Finance , Planning,and legal Administration Department vide G.O.Ms.No.270/69/F5 dt.14.11.1969, by the 2nd respondent and quash the same.

CRL OP NO.2077 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.2/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.8481 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.4/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.15880 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.15/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.15881 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.16/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.15882 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.17/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.13017 OF 2009:
Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.7/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.13018 OF 2009:

Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.6/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.13019 OF 2009:

Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.8/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

CRL OP NO.13020 OF 2009:

Filed Under Section 482 of Criminal Procedure Code to call for the records in CC.12/2009 on the file of the SUB DIVISIONAL JUDICIAL MAGISTRATE, MAHE and to quash the same.

For Petitioners : Mr.A.Prabhakaran
For Respondents : Mr.K.R.Navin
Additional Government Pleader

COMMON O R D E R

Heard Mr.A. Prabhakaran, the learned counsel appearing for the petitioners and Mr.K.R. Navin, the learned Additional Government Pleader for the respondent/Department.

2. These matters were pending before this Court on the ground that, Special Leave Petition has been filed by the respondent/Department before the Hon'ble Supreme Court, against the order passed in Crl.O.P.Nos.21697 and 21698 of 2010, dated 13.06.2011. In the light of the same, the present cases adjourned from time to time on the ground that they shall be dealt with after the disposal of the Special Leave Petition by the Hon'ble Supreme Court.

3. Today, when the matters were taken up, the learned counsel for the petitioners produced a copy of the order passed by the Hon'ble Supreme Court, in the case of (Commercial Tax Officer, Mahe, Pondicherry Vs. T.K. Raghavan and another) in S.L.P.Nos.2507 & 2508 of 2012, dated 13.01.2017, by which, the Special Leave Petition filed by the respondent/Department was dismissed, and in the light of the said decision of the Hon'ble Supreme Court, the present cases have to be allowed.

4. In reply to the submission of the learned counsel for the petitioner, though it is submitted by the learned Additional Government Pleader appearing on behalf of the respondent/Department that, as against the order passed by the Hon'ble Supreme Court, in the Special Leave Petition, a Review Petition has been filed by the respondent/Department, there is

nothing on record to show that the Review Petition has been entertained and whether the order passed in S.L.P.Nos.2507 & 2508 of 2012, dated 13.01.2017, has been either stayed or modified. Therefore, this Court is of the considered view that the present matters are squarely covered by the decision of the Hon'ble Supreme Court, in S.L.P.Nos.2507 & 2508 of 2012, dated 13.01.2017. Accordingly, the Writ Petition as well as the Criminal Original Petitions are allowed. However, there shall be no order as to costs. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Secretary,
The Government of Pondicherry,
Commercial Tax Department,
Pondicherry.
2. The Commissioner of Commercial Tax,
Puducherry.
3. The Commercial Tax Officer,
C.T. Department,
Karaikal.
4. The Commercial Tax Officer,
Commercial Tax Office, Mini Civil Station Main Road,
Mahe.

+lcc to Mr.P.HariBabu, Advocate SR.No.47769

+lcc to Mr.K.Raja Srinivas, Advocate SR.No.47842

Writ Petition No.3399 of 2010
and M.P.No.2 of 2010

and
Crl.O.P.Nos.2077, 8481, 15880 to
15882, 13017 to 13020

M.P.Nos.1 of 2009 in all Crl.O.Ps
M.P.No.3 in Crl.O.P.No.8481 of 2009

SK(CO)
GN(24/07/2017)