IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.15912 of 2017

Tvl.Sri Durga Devi International,
represented by tis Partner,
P.Kandasamy,
No.4(1), sivasakthi Nagar, 3rd Street,
K.t.c. School Road, Parappalayam,
Tirupur - 641 604
Tirupur District. ... Petitioner

Vs.

1. The Joint Commissioner (CT) (Enforcement)
Commercial Tax Buildings,
Dr.Balasundarm Road,
Coimbatore - 641 018.

2. The Assistant Commissioner (CT),
Tirupur South Assessment Circle,
Kumaran road,
Tirupur - 641 601. ... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus to direct the 2nd respondent to arrange to return back the Cheque Nos.671776 dated 25.08.2016 for Rs.10,00,000/- and 671778 dated 27.11.2016 for Rs.11,84,690/-, totalling to Rs.21,84,690/- issued on State Bank of India, SME Branch, P.N.Road, Tirupur, collected on the spot on 12.08.2016 as being contrary to the principles laid down by this Court in the judgment reported in (1992) 87 STC 513 (Hotel blue Nile Vs. State of Tamil Nadu & Others)

For Petitioner : R.Senniappan

For Respondents : Mr.K.Venkatesh, Government Advocate.

O R D E R

Heard, Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2. The petitioner is a registered dealer on the file of the respondent and sought for a direction from this Court to direct the respondents to return the cheques which were collected by the 1st respondent during the course of inspection. Time and again, this Court has been reiterating the legal principle that the enforcement officials are not entitled to effect spot collections of tax as if it is an advance tax nor are they empowered to collect cheques from the dealer during the course of inspection.

3. One of the decisions in this regard, is in the case of Hotel Blue Nile Vs. State of Tamil Nadu & others (1992) 87 STC 513 (Madras). Following the said decision, several writ petitions have been allowed by this Court, directing the respondents therein to return the cheques. The case on hand, is no different from the other matters which were disposed of by earlier orders following the decision in Hotel Blue Nile's case (cited supra).

4. In the light of the above, there will be a direction to the respondents to return the cheque Nos.671776 dated 25.08.2016 for Rs.10,00,000/- and 671778 dated 27.11.2016 for Rs.11,84,690/-, totalling to Rs.21,84,690/- issued on State Bank of India, SME Branch, P.N.Road, Tirupur, collected on the spot on 12.08.2016 and thereafter, the second respondent is directed to issue notice to the petitioner and proceed in accordance with law.

5. The writ petition is disposed of with the above directions. No costs.

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

True Copy

Sub-Assistant Registrar

vsi

To

1. The Joint Commissioner (CT) (Enforcement)
   Commercial Tax Buildings,
   Dr.Balasundarm Road,
   Coimbatore - 641 018.

2. The Assistant Commissioner (CT),
   Tirupur South Assessment Circle,
   Kumaran road,
   Tirupur - 641 601.

+1 CC to Mr. R. Senniappan, Advocate sr 45709

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