IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM

THE HON'BLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.16486 of 2017

Tvl.Andavar Marketing Pvt. Ltd.,
Represented by its Director P.Kanagaraj
No.111/48, Adam Sahib Street, Royapuram
Chennai-600 013. ... Petitioner

Vs.

1.The Assistant Commissioner (CT)
Royapuram Assessment Circle
No.20, KUmmalamman Koil Street,
Chennai-600 081.

2.The Commercial Tax officer
Group-VIII, Enforcement (North)
Chennai-600 006. ... Respondents

Prayer:
Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to arrange to return back cheque No.897169 for Rs.2,32,500/- and cheque No.897170 for Rs.2000/- dated 21.06.2017 totalling to Rs.2,34,500/- issued on Indian Bank, Mathur Branch, Chennai-68 collected on the spot on 21.06.2017 contrary to the principle laid down by this Hon'ble Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile Vs. State of Tamil Nadu & Others).

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Mr.K.Venkatesh, learned Government Advocate takes notice for the respondents. By consent, the main writ petition itself is taken up for final disposal at the admission stage.

2. In this writ petition, the petitioner is a registered dealer on the file of the first respondent and sought for a direction from this Court to direct the respondents to return the cheques which were collected by the second 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 No. 897169 for Rs.2,32,500/- and Cheque No. 897170 for Rs.2000/- dated 21.06.2017, totalling to Rs.2,34,500/- issued on Indian Bank, Mathur Branch, Chennai-68 collected on the spot on 21.06.2017 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.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Assistant Commissioner (CT)
Royapuram Assessment Circle
No.20, KUmmalamman Koil Street,
Chennai-600 081.

2.The Commercial Tax officer
Group-VIII, Enforcement (North)
Chennai-600 006.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.45706
+1cc to the Government Pleader, S.R.No.46172

W.P.No.16486 of 2017

SKS(CO)
CA(07/07/2017)