IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 23396 of 2004 &
W.P.M.P.No.28339 of 2004

Neyveli Lignite Corporation Ltd.,
(Guest House), Neyveli - 607 801. ... Petitioner

Vs.

The Commercial Tax Officer,
Cuddalore Taluk (Pura Nagar),
Cuddalore. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the respondent herein in Rc.A3/7179/97 dated 04.08.2004 and quash the proceedings of the respondent herein in Rc.A3/7179/97 dated 04.08.2004.

For Petitioner : Mr.Parthasarathy, for Mr.N.Inbarjan
For Respondent : Mr.K.Venkatesh,
Government Advocate.

O R D E R

Heard Mr.Parthasarathy, learned counsel for Mr.N.Inbarajan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent.

2.Neyveli Lignite Corporation, the petitioner in this writ petition, is praying for issuance of writ of certiorari to quash the recovery notice issued by the respondent dated 04.08.2004. By the said notice, the respondent is said to have recovered a sum of Rs.5,88,000/- being the luxury tax payable from the period 1983-84 to 1988-89 together with penalty.

3.The petitioner's foremost contention is that without implementing the order dated 22.04.1999 passed by the Joint Commissioner, by exercising the suo motu power of revision and passing an order on 24.09.1999, the respondent could not issue a demand directly. This Court is not fully convinced with the contentions raised by the petitioner as it is evidently clear that the guest house building is owned by the petitioner Corporation.

4.It appears that the maintenance of the building and the other services were rendered by a group called Self-Employment council. The constitution of the said council, who are the persons who manage the council and how it is being manged is a big question mark. Thus, as long as self-employment council has not challenged the order dated 22.04.1999, the respondent is entitled to recover the amount quantified as tax and penalty in the order passed by the Joint Commissioner.

5.The petitioner being the owner of the premises in which the services were rendered to the employees of the Neyveli Lignite Corporation and others on cost basis, they would be equally liable with self-employment council, as there appears to be an entity which has been constituted by the appellant Corporation presumably for certain other vested reasons.

6.Therefore, the impugned order of demand cannot be quashed. This writ petition is dismissed. The petitioner shall file their objections before the respondent within a period of two weeks from the date of receipt of a copy of this order, after which the respondent shall consider the objections and proceed in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

abr

To

The Commercial Tax Officer,
Cuddalore Taluk (Pura Nagar),
Cuddalore.

+1 CC to Mr.Inbarajan, Advocate sr 50323.
+1 CC to Spl. Govt. Pleader sr 50376.

W.P.No. 23396 of 2004

MG(CO)
sp(11/08/2017)