

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2017

CORAM :
THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
W.P.No.24970 of 2002

K.Ramachandran

.. Petitioner

vs.

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Tahsildar/Divisional Excise Officer,
Coimbatore South,
Coimbatore.

.. Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in Na.Ka.No.141/96-A datd 28.06.2002 on the file of the 2nd respondnet and quash the same.

For Petitioner : Mr.I.Elango

For Respondents : Ms.A.Sri Jayanti
Special Government Pleader

O R D E R

Heard Mr.I.Elango, learned counsel for the petitioner and Ms.A.Sri Jayanti, learned Special Government Pleader, appearing for the respondents.

2.The petitioner along with 21 persons joined together and formed a company called Ramachandran & Company and participated in the auction held by the Government of Tamil Nadu for allotment of Arrack Shop No.50 during the year 1981-82.

3.Though, the bid submitted by the petitioner and others were the highest, auction was not confirmed and re-auction was held on 07.08.1981 in respect of the very same shop, which according to the petitioner, without intimation to him nor by advertising in the newspapers. In the said re-auction one Machiappa Gounder was declared as a successful bidder. It appears that thereafter the petitioner sought for refund of Earnest Money Deposit paid by the petitioner i.e.,Rs.36,150/- and such request was pending with the authorities for

consideration. While so, on 14.03.1997, a notice was received by the petitioner stating that he would pay a sum of Rs.10,23,754/- towards the notional loss sustained by the Government in respect of the Arrack Shop. This notice came to be issued after 16 years from the date of auction. Immediately the petitioner approached the Assistant Commissioner, Excise Department, Coimbatore and represented the matter. However, the petitioner was compelled to sign an affidavit stating that he is due and payable a sum of Rs.6,20,350/- towards notional loss and the petitioner had paid the entire amount. On 18.08.2000, the petitioner received a notice from the second respondent stating that he has paid a sum of Rs.6,00,000/- as on 22.09.1999 and he has to pay the balance amount a sum of Rs.20,350/- together with penal interest at 5%. The petitioner preferred an appeal before the District Collector against order passed by the second respondent and also filed an application for stay. While the appeal petition was pending, the respondent had issued the impugned notice calling upon the petitioner to pay the entire amount with penal interest at 5%. It is not known as to whether the appeal petition filed by the petitioner, before the District Collector has been disposed of or not. In any event, the writ petition having been filed in the year 2002, cannot be kept pending any longer.

4. Further, at the time when the writ petition was admitted, an order of interim stay was granted on 12.07.2002 and the same was made absolute on 11.09.2003. Therefore, at present the impugned notice cannot be given effect to. More so, if the appeal is yet to be disposed of by the District Collector.

5. Accordingly the writ petition is allowed and the impugned notice is set aside and the District Collector, Coimbatore is directed to consider and pass orders on the petitioner's appeal petition on merits and in accordance with law, if not already disposed of. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rg/klt

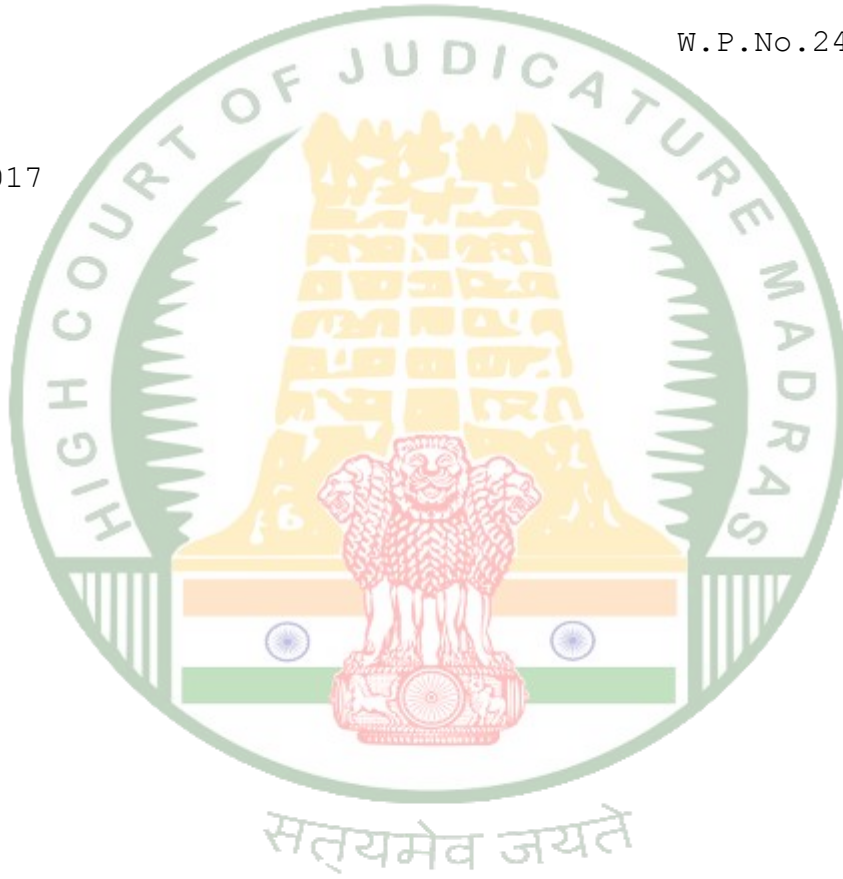
To

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Tahsildar/Divisional Excise Officer,
Coimbatore South,
Coimbatore.

W.P.No.24970 of 2002

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