IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Sixth day of July Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE S.M.SUBRAMANIAM

WMP.NOS.20043 TO 20045 OF 2018

IN WP.NOS.10913 TO 10915 OF 2018

TVL.KE VEE ARR & CO [PETITIONER IN ALL THE PETITIONS]
REP.BY ITS PARTNER,
K.V. RANGANATHAN,
OLD NO. 173-B, NEW NO.440-B,
MAIN ROAD, PALACODE 636 808,
DHARMAPURI DISTRICT.

Vs

THE COMMERCIAL TAX OFFICER, [RESPONDENT]
NOW DESIGNATED AS STATE TAX OFFICER,
PALACODE ASSESSMENT CIRCLE,
PALACODE 636 808,
DHARMAPURI DISTRICT.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

grant an order of Modification, modifying the condition imposed in WMP No.12840 / 2018 in WP No.10913/2018 dated 27.04.2018 (in WMP.No.20043/178) in WP.No.10913/18)

(ii) t*o Grant an order of Modification, modifying the condition imposed in WMP No.12841 / 2018 in WP No.10914/2018 dated 27.04.2018 (in WMP.No.20044/18) in WP.No.10914/18*

(iii)To Grant an order of Modification, modifying the condition imposed in WMP No.12842/ 2018 in WP No.10915/2018 dated 27.04.2018 (in WMP.No.20045/15) in WP.No.10915/18 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.R.SENNIAPPAN Advocate for the petitioner in all the petitions and of M/S.M.HARIHARAN Additional Government Pleader (Taxes) on behalf of the respondents in all the petitions the court made the following order:-

Misplaced sympathy and leniency in respect of payment of tax to the Government can never be shown by the Constitutional Courts. When large number of Public Interest Litigations and other cases are filed seeking “direction against the state” to provide minimum facilities to the public, which is ensured under the constitution, then every citizen of this country is bound to realise that they are liable to pay the tax to the Government. In the absence of collection of tax by the Government it may not be possible for the state to provide the required facilities to the citizen for common usage. Undoubtedly, the rights of the tax payers are also to be protected under the provisions of law.

2. However, when an order demanding the tax is made by the competitive authorities and when the same is challenged before the court of law, the balancing and a pragmatic approach is to be taken. Under these circumstances while granting an interim order of stay this court passed an order directing the writ petitioner to deposit 50% of the demanded tax, such a direction was issued to have a balancing approach and to fix responsibility on the writ petitioner.

3. However, his liability or otherwise in respect of payment of tax as demanded by the respondent has to be decided at the time of final hearing of the writ petition. Undoubtedly, if the writ petitioner succeeds in the writ petition then he will be entitled to get reimbursement of the excess amount if any paid to the department or adjust the same with the tax amount if it is any due. This being approach to be adopted by the courts in the present petition filed seeking modification deserves no consideration.

4. The attitude of the citizen for not paying the tax is to be deprecated. It is a fundamental duty of the citizen under Article 51(A) of the Constitution of India, that they must be prompt in payment of tax and other liabilities to the state, only on fulfilling the fundamental duties, we will be getting a corresponding right to question the state. Duties, Responsibilities and rights are co-related and it cannot be separated. The person who is performing the duty alone will have the moral right to claim his rights in accordance with law.

5. Under these circumstances the writ petitioner is directed to comply with the conditional order passed by this court on 27.04.2018 in W.M.P. No.12840 of 2018 in W.P. No.10913 of 2018, W.M.P. No.12841 of 2018 in W.P. No.10914 of 2018 and W.M.P. No.12842 of 2018 in W.P. No.10915 of 2018 within a period of 5 weeks.

6. Accordingly, W.M.P. Nos. 20043 of 2018 to 20045 of 2018 stands dismissed.

-sd/-
06/07/2018
/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE COMMERCIAL TAX OFFICER,
NOW DESIGNATED AS STATE TAX OFFICER,
PALACODE ASSESSMENT CIRCLE,
PALACODE 636 808,
DHARMAPURI DISTRICT.

C.C. to M/S.R.SENNIAPPAN Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
WMP.20043 TO 20045/2018

in
WP.10913 TO 10915/2018

Date :06/07/2018

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