IN THE HIGH COURT OF JUDICATURE AT MADRAS

dated 27.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.20915 of 2018
and
W.M.P.No.24557 of 2018

V.G.P. Universal Kingdom,
East Coast Road,
Injambakkam, Chennai - 600 115
Rep. by its Director
Mr.V.G.P.Babudas ..Petitioner

Vs.

The Assistant Revenue Officer,
Cum Entertainment Tax Officer,
Zone-15, Greater Chennai Corporation,
No.120, Rajiv Gandhi Road,
Sholinganallur,
Chennai - 600 119. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARI to call for the records of the respondent in proceedings in MA.A.15/VA.THU/NA.KA.NO.R.1/251/2018 dated 09/08/2018 and quash the same.

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.T.C.Gopalakrishnan
Standing Counsel

O R D E R

The petitioner is an Amusement park. The present Writ Petition is filed challenging the demand calling upon the Petitioner to pay the Entertainment Tax collected from the public from the month of March 2018 to July 2018, within 24 hours from the date of receipt of the impugned communication.

2. Heard both sides.

3. It is contended by the petitioner that a representation is pending before the Government for withdrawal of the Entertainment Tax and therefore, during the pendency of such

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request, the petitioner did not make the payment of the Entertainment Tax, which is neither willful nor wanton.

4. On the other hand, the learned counsel appearing for the respondent submitted that the petitioner, having collected such Entertainment Tax from the public during the period from March 2018 to July 2018, is not entitled to retain such sum merely because their representation for withdrawal of Entertainment Tax is pending before the Government.

5. There is no dispute to the fact that the petitioner is collecting Entertainment Tax from the public, while issuing the Entrance Ticket to their Amusement Park. It is also not in dispute that the petitioner has paid such Entertainment Tax, so collected from the public, to the respondent till February 2018. It is an admitted fact that the petitioner stopped the payment of Entertainment Tax to the respondent from the month of March 2018. The petitioner claims that they made some representation before the Government for withdrawal of the Entertainment Tax in view of the introduction of GST. Whether the petitioner claim is entertainable or not, is for the Government to consider and decide. Therefore, this Court at this stage does not express any view on merits of such claim. Unless and until an order is passed by the Government on the representation made by the petitioner, it is not justifiable on the part of them in not making the payment of the Entertainment Tax to the Government, which was already collected from the public.

6. Moreover, what is sought to be recovered from the petitioner, is the amount which they have already collected from the public. Therefore, I find no justification on the part of the petitioner to contend that they are not liable to pay the same because of the pendency of request before the Government, as stated supra. Hence, this Court is not inclined to interfere with the impugned proceedings. However since the learned counsel for the petitioner sought some time to make the payment, this Writ Petition is disposed of, by directing the respondent to keep the impugned proceedings in abeyance for a period of four weeks, subject to the following terms and conditions:

(a) The petitioner shall pay 50% of the demand for the total period commencing from March 2018 to July 2018 within a period of two weeks from the date of receipt of a copy of this Order.

(b) The balance 50% of the demand for the period from March 2018 to July 2018 shall be paid by the petitioner within two weeks thereafter from the payment of the first installment as stated Supra.

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(c) If any one of the installment as ordered is not paid or defaulted, it is open to the respondent to proceed against the petitioner to recover such sum in accordance with law.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vri

To

The Assistant Revenue Officer,
Cum Entertainment Tax Officer,
Zone-15, Greater Chennai Corporation,
No.120, Rajiv Gandhi Road,
Sholinganallur,Chennai - 600 119.

+ 2 ccs to Mr.T.C. Gopalakrishnan, Advocate Sr.58300

+ 1 cc to Mr. N. Umapathi, Advocate Sr.59038

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GJII(CO)
EU(18/09/2018)

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