IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31656 of 2004
and
WPMP.No.38378 of 2004

R.Ravichandran ... Petitioner

vs.

1. State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 9.

2. The Commissioner,
Ranipet Municipality,
Ranipet, Vellore District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for records in proceedings Na.Ka.No.2923/2000/F1, dated 26.10.2004, on the file of the 2nd respondent, quash the same.

For Petitioner : Mr. S.Thirunavukkarasu

For Respondents: Mrs.R.Janaki
Addl. Govt. Pleader for R1.
Mr.P.Gurunathan for R2.

O R D E R

The notice issued by the respondent in the proceeding dated 26.10.2004 demanding the writ petitioner to pay the entertainment tax for the period from 01.07.2000 to 31.03.2003 is under challenge in the present writ petition.

2. The writ petitioner is a Cable TV Operator. Accordingly, the writ petitioner is liable to pay the entertainment tax as per the provisions of the Tamil Nadu Entertainment Tax Act 1939. The learned counsel for the writ petitioner mainly raised the ground that the Government issued orders in G.O.Ms.No.91,

Municipal Administration and Water Supply Department, dated 30.06.2000, stating that the respective Municipalities are empowered to collect the entertainment tax from the Cable TV Operators.

3. The learned counsel is of an opinion that while changing the agency, the procedures contemplated are not followed. This apart, the original provisions of the Act was repealed and therefore, as per the G.O. the writ petitioner is not liable to pay the entertainment tax for the particular period. The writ petitioner relied upon the notification issued by the Government on 03.06.2003 stating that Section 16 of the Tamil Nadu Entertainment Tax Act, 1939 was amended. In view of the amendment, the writ petitioner is not liable to pay the entertainment tax.

4. This Court is of an opinion that the amendment issued in Government Gazette on 03.06.2003 will have the prospective application and the same will not prevent the Authorities from collecting tax for the previous period. This apart, the impugned notice of demand was issued directing the writ petitioner to pay the entertainment tax for the period from 01.07.2000 to 31.03.2003. The amendment was notified on 03.06.2003. Thus, there is no prohibition on the part of the Authorities from collecting the entertainment tax for the period from 01.07.2000 to 31.03.2003.

5. This apart, the Government order referred by the writ petitioner issued in G.O.Ms.No.91 is nothing but a change of agency and therefore, the same will not confer any exemption for the writ petitioner in respect of the payment of entertainment tax. The G.O. states that till 30.06.2000, the Commercial Tax Department was collecting the entertainment tax and therefore all the disputes arises up to 30.06.2000 are to be adjudicated by the Commercial Tax Department and thereafter the entertainment tax will be collected by the respective Municipalities.

6. In any event, the writ petitioner is liable to pay the entertainment tax for the period from 01.07.2000 to 31.03.2003 and during that relevant point of time, the Municipality was empowered to collect the entertainment tax from the Cable TV Operators.

7. The learned counsel for the writ petitioner states that a show-cause notice is to be issued as per the provisions of Section 7(A) of the Act. It is made clear that the respondents if not issued any such notice, they are at liberty to issue such

notice and get the explanations from the writ petitioner and pass an order in respect of the demand of entertainment tax with reference to the provisions of the Statute.

8. This being the issues, this Court is of an opinion that the writ petitioner is liable to pay the entertainment tax as demanded in the impugned notice and accordingly, the writ petition is devoid on merits and stands dismissed. No Costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Secretary,
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 9.

2. The Commissioner,
Ranipet Municipality,
Ranipet, Vellore District.

W.P.No.31656 of 2004

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