



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.[MD]Nos.19996, 20127, 20867 to 20869 of 2013, 430 to 440, 730,
982 to 984 and 1516 of 2014

and

connected miscellaneous petitions

W.P.[MD]No.19996 of 2013:

Nanjil Recreation Club,
(Previously called as
Olympic Recreation Centre),
Having Office at Marthandam Main Road,
Kavasanam, Sanalkarai,
Kulasekaram, Kanyakumari District.
Rep. By its Secretary.

: Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Law Department,
Fort St. George, Chennai - 600 009.
- 2.The Secretary to Government,
Commercial Taxes & Registration Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
- 3.The Managing Director,
Tamil Nadu State Marketing Corporation,
CMDA Tower, 4th Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008.
- 4.The District Manager,
Tamil Nadu State Marketing Corporation,
Kanyakumari District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring impugned Amendment to the Tamil Nadu Value Added Tax Act, 2006 under Act No.28 of 2013 published by Extraordinary Notification vide Part IV Section 2 in the Tamil Nadu Government Gazette dated 08.11.2013 as ultra vires, illegal, unenforceable, unconstitutional and consequently to hold that the said Act is not applicable for the FL-



2 licences granted by third respondent and forbear the respondents from levying any tax retrospectively from 01.04.2013.

For Petitioner : Mr.C.Jeganathan

For Respondents 1&2 : Mrs.S.Srimathy
Special Government Pleader

For Respondents 3 & 4 : Mr.H.Arumugam

WP(MD).20127 OF 2013

1. S. Rajapadmanathan, Proprietor, Anjana Hotels, No.6/1, Cumbum Main Road, P.C.Patti, Theni District
2. Vinod Mathew, Hotel Theni International, Madurai Road, Theni.
3. S. Paneerselvam, Hotel Sri Vijay Niwas, No.1074, Aranmanaipettai, Theni Town and District
4. B.S. Terry, Sri Pandian Hotels, D.No.1257 to 1259, Periyakulam Road, Theni District
5. R. Alagesan, A.P.M. Hotels and Resoirts, No.19, Cumbum Road, Palanichettipatti, Theni District
6. T. Ravi, R.R. Hotels, Having Office at 14/21, Viswanathan Street, Cumbum, Theni District
7. S. Srinivasagam, Hotel Western Gatz, No.78-A, N.R.T. Main Road, Theni.
8. R. Rajangam, Gowri Tourist Home (P) Ltd., Battalagundu, Nelakottai Tk, Dindigul District

... Petitioners

- Vs. -

1. The State of Tamil Nadu, Rep. by the Secy. to Govt., Law Dept., Fort St. George, Chennai.
2. The Secy. to Govt., Commercial Taxes & Registration Dept., Govt. of Tamil Nadu, Fort St.George, Chennai-9.
3. The Managing Director, TASMACH, Cmda Tower, 4th Floor, Gandhi Irwin Bridge Road, Egmore, Chennai-8.
4. The District Manager, TASMACH, Theni District



5. The District Manager, TASMAL, Madurai District

... Respondents

Prayer in WP(MD). 20127/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ, order or direction or any other writ in the nature of a Writ of Declaration in the nature of declaring impugned Amendment to the Tamil Nadu Value Added Tax Act, 2006 under Act No.28/2013 published by Extraordinary Notification vide Part IV Section 2 in the Tamil Nadu Government Gazette dated 08.11.2013 as ultra vires, illegal, unenforceable, unconstitutional and consequently to hold that the said Act is not applicable for the FL-3 licences granted by third respondent and forbear the respondents from levying any tax retrospectively from 01.04.2013 and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner :

Mr.C.Jeganathan

For Respondents 1 & 2:

Mrs.S.Srimathy,

Special Government Pleader

For Respondents 3 to 5

Mr.H.Arumugam.

WP(MD).20867 TO 20869 OF 2013:

1. Tvl. Siva Recreation Club, Represented by its Secretary,
No. 9, Sambandha Moorthy Street,
Madurai- 1.

... Petitioner in WP(MD). 20867/ 2013

1. Tvl. Hotel Chenthoor, Represented by its Managing Director,
No.106, West Perumal Maistry Street, Madurai 1

... Petitioner in WP(MD). 20868/ 2013

1. Tvl. Amutham Sports Club Represented by its Secretary, D.No.
358, G.S.T Road, Pasumalai, Madurai 4

... Petitioner in WP(MD). 20869/ 2013

- Vs. -

1. The State of Tamilnadu Rep by the Secretary to Government,
Law Department, Fort St. George,
Chennai.

2. The Secretary to Government Commercial Taxes and Registration
Department, Government of Tamilnadu,
Fort St. George, Chennai- 009.



3. The Managing Director,
Tamilnadu State Marketing Corporation, Cmda Tower,
4th Floor, Gandhi Irwin Bridge Road, Egmore, Chennai- 008.

4. The District Manager
Tamilnadu State Marketing Corporation Madurai District

... Respondents

Prayer in WP(MD). 20867 TO 20869 OF 2013 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration in the nature of declaring impugned Amendment to the Tamilnadu Value Added Tax Act, 2006 under Act No. 28 of 2013 published by Extraordinary Notification vide Part IV Section 2 in the Tamilnadu Government Gazettee dated 08.11.2013 as ultravires, illegal, unforceable, unconstitutional and consequently to hold that the said act is not applicable for the FL-2 licenses granted by third respondent and forbear the respondents from levying any tax retrospectively from 01.04.2013.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents 1 & 2:Mrs.S.Srimathy, Special Government Pleader

For Respondents 3 & 4:Mr.H.Arumugam.

WP(MD).430 TO 440 OF 2014:

1. Hotel Praniv Plaza (FL3)

Rep. by its Proprietor, S.K.Sukumar, S/o S. Karanchandra Mohan Dass,
No.921/2 Ward No.2, D.No. 41/86 New Agraharam, Palani Road, Dindigul

... Petitioner in WP(MD). 430/ 2014

1. Hotel Vales Park (FL3), Rep. by its Proprietor, V. Vinoo Anand,
S/o.S. Venkatasubbu, 49/A, Mengles Road, Dindigul.

... Petitioner in WP(MD). 431/ 2014

1. Tvl. Hotel Tamil Nadu(FL3) Rep by its Proprietor, N.
Backiyalakshmi (FL3), W/o. Neduchelaian, Kodaikannal Road, Dindigul.

... Petitioner in WP(MD). 432/ 2014

1. Dolphin Bar (FL3) Rep. by its Proprietor, P.Ramalingam, S/o
Pitichamuth Gownder, 14. Chatham Street, Dindigul

... Petitioner in WP(MD). 433/ 2014

1. Tvl. Hotel SKN Boarding And Loading Pvt. Ltd (FL3),
Rep. by its Managing Director, N. Selvaraj, S/o. Nataraj, 4th
Dindigul Road, Palani, Dindigul.

... Petitioner in WP(MD). 434/ 2014



Tvl. Palani Sri Rajalakshmi Hotels Pvt Ltd. (FL3), Rep by its Managing Director, S. Suriya Narayanan, S/o. Rajasekar, 16DGL Road, Palani, Dindigul.

... Petitioner in WP(MD). 435/ 2014

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Tvl Hotels Sri Rajeswari (50) Towers (FL3), Repd. by its Managing Director, A.Ramakrishnan, S/o Andi Gownder, Main Road, Batlagundu, Dindigul

... Petitioner in WP(MD). 436/ 2014

Tvl. the Royal Park Hotels (FL3), Rep. by its Proprietor, B. Shahul Hameed (FL3), S/o. Bakeer Mohammed, 256/w2, Dindigul Road, Old Rto Office Near, Palani Dindigul.

... Petitioner in WP(MD). 437/ 2014

Tvl,. Hotel Sree Vengateswara (FL 3) Rep by its Proprietor, G. Karthikeyan, S/o. A.K.M. Govindasamy Chettiar, No.7, Adivaram Road, Palani, Dindigul.

... Petitioner in WP(MD). 438/ 2014

Tvl. Dindigul Parvathy Natarajan Hotels Pvt. Ltd(FL3), Repd. by its Director, N.Sridhar, S/o N. Nadarajan, No.85, Mengies Road, Nagal Nagar, Dindigul

... Petitioner in WP(MD). 439/ 2014

Tvl. Hotel Akmg (FL3), Rep. by its Proprietor, G. Karthikeyan, S/o.A.K.M. Govindasamy Chettiar, Main Road, Oddanchathiram, Dindigul

... Petitioner in WP(MD). 440/ 2014

- Vs. -

1. The State of Tamil Nadu Repd. by the Secretary to Govt., Dept. of Commercial Taxes, Fort.St.George, Chennai 9

2. The Managing Director Tamil Nadu State Marketing Corporation Ltd., Chennai

3. The Manager, Tn State Marketing Corporation Ltd., Dindigul

... Respondents in WP(MD). 430 to 440 of 2014



Prayer in WP(MD). 430 to 440 of 2014 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the Amended Act 28/2013 in the Tami Nadu Value Added Tax. 2006 dated 08.11.2013 which has amended Entry of Second Schedule are void as being inconsistent with Articles 14 and 19(1)(g) besides being violative of Article 301 of the Constitution of India and therefore, inoperative and unenforceable and recoveries pursuant thereto are without authority of law and infringe Article 265 of the Constitution of India and pass such further or other orders.

For Petitioner : Mr.T.Bashyam
For Respondent 1 : Mrs.S.Srimathy, Special Government Pleader
For Respondents 2 & 3: Mr.H.Arumugam.

WP(MD).730 OF 2014:

1. A-1 Welfare Club, Rep. By Its Secretary, M.Balachandran, S/o O.V. Madavaiyar, No.8, Anna Nagar West Main Road, K.K. Nagar Madurai
... Petitioner

- Vs. -

1. The Principal Secretary To Govt., Commercial Taxes and Registration Dept., Govt . of Tamil Nadu, Fort.St.George, Chennai

2. The Managing Director, Tamil Nadu State Marketing Corporation, Cmda Tower 4th Floor, Gandhi Irwin Bridge Road, Egmore, Chennai

3. The District Manager, /sub Collector, Tamil Nadu State Marketing Corporation Ltd., Madurai North, Madurai District
... Respondents

Prayer in WP(MD). 730/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration , declaring that G.O. Ms. No. 139 dated 08.11.2013 issued by the 1st respondent is unconstitutional and inapplicable to holder of FL2 license and pass such other order or orders.

For Petitioner : Mr.S.Suresh Kumar
For Respondent 1 : Mrs.S.Srimathy, Special Government Pleader
For Respondents 2 & 3: Mr.H.Arumugam.



WP(MD).982 TO 984 OF 2014

1. Five Star Recreation Club (FL2), Rep by its Secretary,
Jayaprakash, 487-A Main Road, Thiruthangal, Virudhunagar District.
... Petitioner in WP(MD). 982/ 2014

1. Hotel Park Plaza, Rep. by its Managing Director, K.P.
Naveenathakrishnan, S/o.K. Paramasivam, Melaperumal Maistry Street,
Madurai.
... Petitioner in WP(MD). 983/ 2014

1. Hotel Annamalai Inter-National, Represented by its Proprietor,
S.Jeyaraman, S/o A.L.Singaram, Mattuthavani, Madurai
... Petitioner in WP(MD). 984/ 2014

- Vs. -

1. The State of Tamil Nadu Rep by the Secretary to Government,
Department of Commercial Taxes, Fort St. George, Chennai -009.

2. The Managing Director TNSMAC Ltd., Chennai.
... 1st and 2nd Respondents in WP(MD). 982 to 984 of 2014

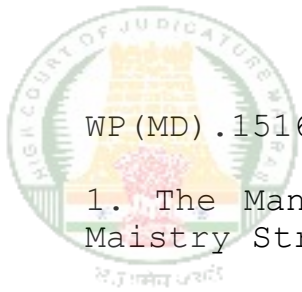
3. The Manager TNSMAC Ltd., Virudhunagar.
... 3rd Respondent in WP(MD). 982 & 984 of 2014

3. The District Manager Regional Office (TASMAC), Madurai.
... 3rd Respondent in WP(MD). 983/ 2014

Prayer in WP(MD). 982 to 984 of 2014 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a Declaration declaring the Amended Act 28/2013 in the Tamil Nadu Value Added Tax, 2006 dated 8.11.2013 which has amended entry of second schedule are void as being inconsistent with articles 14 and 19 (1) (g) besides being violative of Article 301 of the Constitution of India and therefore, inoperative and unenforceable and recoveries pursuant thereto are without authority of law and infringe Article 265 of the Constitution of India.

For Petitioner : Mr.T.Basyam
For Respondent 1 : Mrs.S.Srimathy, Special Government Pleader
For Respondents 2 & 3: Mr.H.Arumugam.



WP (MD).1516 OF 2014:

1. The Managing Director,
Maistry Street, Madurai 1

Hotel Prem Nivas, No.102, Melaperumal

... Petitioner

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- Vs. -

1. The Deputy Collector
North, Madurai

District Manager, Tasmac Ltd., Madurai

... Respondent

Prayer in WP(MD). 1516/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records in pursuant to the impugned order dated 31.12.2013 in Na.Ka.No. 257/2013/A on the file of the Respondent and quash the same and pass such further or other orders.

For Petitioner : Mr.S.Madhavan
For Respondents 1 : Mr.H.Arumugam

COMMON ORDER

[Order of the Court was made by **The Hon'ble Chief Justice**]

This batch of writ petitions raise the identical issue relating to the retrospective realisation of tax on alcoholic drinks which has been dealt with by us in another batch of Writ Petitions being W.P.[MD]Nos.19910 of 2013, etc., batch, [**Star Club, Rep. by its Secretary, Sakthivel Vs. The Principal Secretary to Government, Commercial Taxes and Registration Department, Government of Tamil Nadu, Fort St. George, Chennai and others**] that was finally disposed of yesterday [17.12.2019], granting the relief to the petitioners to the extent indicated therein.

2. This batch also being identically placed raising identical issue of law and facts, the petitions stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

MR/RSB

<https://hcservices.ecourts.gov.in/hcservices/>



To
1.The Secretary to Government,
State of Tamil Nadu,
Law Department,
Fort St. George, Chennai - 600 009.

2.The Secretary to Government,
Commercial Taxes & Registration Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

+1CC TO MR.S.MADHAVAN, Advocate Sr. No.105637
+1CC TO MR.NIRANJAN S.KUMAR, Advocate Sr. No.105730
+2CC TO M/S.VEERA ASSO., Advocate Sr. No.105871 & 105872
+1CC TO MR.H.ARUMUGAM, Advocate Sr. No. 106186
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.
106026 TO 106032

COMMON ORDER MADE IN
W.P.[MD]Nos.19996, 20127, 20867 to 20869 of 2013,
430 to 440, 730, 982 to 984 and 1516 of 2014
18.12.2019

KM(CO)
TR(21.01.2020) 9P 9C