IN THE HIGH COURT OF JUDICATURE OF MADRAS

RESERVED ON : 15.09.2020

PRONOUNCED ON: 30.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.17694 & 17695 of 2012
and M.P.Nos.1 & 1 of 2012

1.M/s.Shree Radha Theatre
rep. by its Proprietor,
G.N.T. Road, Redhills,
Chennai-600 052. ...Petitioner in W.P.17694 of 2012

2.M/s.Shree Bala Theatre
rep. by its Proprietor,
G.N.T. Road, Redhills,
Chennai-600 052. ...Petitioner in W.P.17695 of 2012

Vs.

The Entertainment Tax Officer,
Manali Assessment Circle,
I Floor, Kuralagam Annex,
Chennai-600 108. ...Respondent in both W.Ps.

PRAYER in W.P.No.17694 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the impugned proceedings of the respondent in PF No.10/2012-13 and quash the order dated 25.05.2012 as the same has been passed contrary to the provisions of the Tamil nadu Entertainments Tax Act, 1939 and also against the law laid down by the Madras High Court in the case of Sri Murugan Theatre V. Entertainment Tax Officer (DCTO) and another reported in 146 STC 227.

PRAYER in W.P.No.17695 of 2012: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the impugned proceedings of the respondent in PF No.9/2012-13 and quash the order dated 25.05.2012 as the same has been passed contrary to the provisions of the Tamil nadu Entertainments Tax Act, 1939 and also against the law laid down by the Madras High Court in the case of Sri Murugan Theatre V. Entertainment Tax Officer (DCTO) and another reported in 146 STC 227.

For Petitioner : Mr.P.Rajkumar

For Respondents:M/s.G.Dhanamadhi,
Government Advocate(T)

COMMON ORDER

With the consent of both parties, the present Writ Petitions are heard through Video Conferencing on 15.09.2020.

2. Both the petitioners herein are Cinema theatres, which were earlier situated outside the Chennai Corporation. Under G.O.Ms.No.136, Municipal Administration and Water Supply (Election) Department dated 12.09.2011, the areas where the theatres were situated, merged with the Chennai Corporation. Prior to the merger, the petitioner's were remitting Entertainment tax at the old rate of 10% and after the merger, they were required to remit the tax at the rate of 30%. Through the impugned notice dated 25.05.2012, the respondent had informed that the petitioners were required to pay the entertainment tax at the rate of 10% from 12.09.2011 to 20.09.2011 and at the amended rate of 30% from 27.09.2011 onwards. Since the petitioners had already paid 10% for the aforesaid period, they were required to pay the difference of 20% along with penalty under Section 7(B)(3). These demands are put up under challenge in the present Writ Petitions.

3. The learned counsel for the petitioner submitted that the petitioner had already paid the tax demanded and the penalty alone is disputed in these Petitions.

4. It is seen that the revised assessment order under Section 7(B)(2) of the Tamil Nadu Entertainment Tax Act, 1979 has been passed without making an original assessment under Section 7(A)(2) or 7(A)(3) of the Act and therefore the assessment itself requires reconsideration.

5. In view of the same, the impugned orders dated 25.05.2012, are set aside and consequently, the matters are remanded back to the respondent for fresh consideration. The respondent shall give due opportunity of personal hearing to the petitioner to put forth their objections and thereafter take an appropriate course of action, as expeditiously as possible.

6. With the above observations and direction, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP
To

The Entertainment Tax Officer,
Manali Assessment Circle,
I Floor, Kuralagam Annex,
Chennai-600 108.

+1 cc to The Government Pleader (Tax), Sr.No. 32242

W.P.Nos.17694 & 17695 of 2012
and M.P.Nos.1 & 1 of 2012

MG(CO)
RMP(28/10/2020)