

In the High Court of Judicature at Madras

Dated : 31.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Contempt Petition No.1806 of 2019

P.GOPINATHAN, BLOCK DEVELOPMENT
OFFICER (NOW PLACED UNDER SUSPENSION)
KOLATHUR BLOCK, SALEM DISTRICT,
SALEM.

...Petitioner

Vs

- 1.MR.S.A.RAMAN, DISTRICT COLLECTOR,
SALEM DISTRICT, SALEM-1.
- 2.MR.N.ARULJOTHI ARASAN, PROJECT
DIRECTOR, DISTRICT RURAL
DEVELOPMENT AGENCY, SALEM-1.
- 3.MR.V.RAMANATHAN, BLOCK DEVELOPMENT
OFFICER (VILLAGE PANCHAYAT),
KOLATHUR BLOCK-636303, METTUR
TALUK, SALEM DISTRICT.
- 4.MR.G.CHENNA KRISHNAN, COMMISSIONER/
BLOCK DEVELOPMENT OFFICER (BLOCK
PANCHAYAT), KOLATHUR BLOCK-636303,
METTUR TALUK, SALEM DISTRICT.
- 5.MR.R.KUMAR, MANAGING PARTNER,
M.C.M. AND CO., METTUPALAYANUR,
KARUNGALLUR (PO), METTUR TALUK,
SALEM DISTRICT-636303.
- 6.MRS.G.THANGAM

7.MR.S.THIRULOGACHANDAR, ASSISTANT
COMMISSIONER OF COMMERCIAL TAX,
OMALUR.

8.MR.S.SUBASH CHANDRA BOSE, JOINT
COMMISSIONER (TERRITORIAL),
COMMERCIAL TAXES, SALEM DIVISION,
SALEM

...Respondents

PETITION under Section 11 of the Contempt of Courts Act
to take appropriate action on respondents 1 to 8 for their
wilfully disobeying the order of this Court dated 20.4.2016
made in W.P.No.11525 of 2016.

Petitioner : Appearing in person
For Respondents 1 to 4 : Mr.M.Elumalai, GA
For Respondents 7 & 8 : Mr.M.Hariharan, AGP

ORDER

I have heard the petitioner appearing in person,
Mr.M.Elumalai, learned Government Advocate appearing for
respondents 1 to 4, Mr.M.Hariharan, learned Additional
Government Pleader appearing for respondents 7 and 8 and
Mr.S.Thirulogachandar, Assistant Commissioner (ST), Omalur
- the contemner, who is present in court.

2. The petitioner, who was working as a Block
Development Officer, now placed under suspension on

pendency of a criminal case, has filed W.P.No. 11525 of 2016 seeking to restrain respondents 1 to 4 from settling the bills of two contractors - respondents 5 and 6 till the disposal of the petitioner's representation dated 02.3.2016.

3. The petitioner's representation dated 02.3.2016 is to the effect that both the contractors produced false and fabricated Form S to cheat the Commercial Taxes Department and defraud the State Exchequer. According to the petitioner, more than Rs.45 lakhs is due and payable by them. Therefore, the petitioner sought for investigation.

4. After hearing both the parties, the said writ petition in W.P.No.11525 of 2016 was disposed of on 20.4.2016, the operative portion of which reads as follows:

"In the light of the above, the writ petition is disposed of by directing respondents 3 and 4 to deduct tax at the rate of 2% from all the bills, which are to be settled to the respondents 5 and 6 and the remaining amount shall be paid to the respondents 5 and 6 subject to satisfaction of other conditions. The amount so deducted as TDS shall be remitted to the seventh respondent by

the respondents 3 and 4 leaving it open to the respondents 5 and 6 to file appropriate application before the seventh respondent to establish their case. The eighth respondent shall ensure that the above direction is scrupulously complied with."

5. The petitioner would state that the total amount of Rs.45 lakhs has not been recovered, that the Commercial Taxes Department has willfully violated the order, that earlier, the petitioner filed a contempt petition in Cont.P.No.516 of 2017 to punish the Block Development Officer/ Superintendent (Admn.), office of the Assistant Director (Audit), Salem-1 and that the same was disposed of on 09.6.2017. The petitioner would reiterate that the entire amount of Rs.45 lakhs has not been recovered. While saying so, he would further state that he has been arrayed as an accused in a case registered under the Prevention of Corruption Act wherein a trap was set up and thereafter, the petitioner was placed under suspension. According to him, it is a counter blast of action initiated against the two contractors.

6. It is submitted by the learned Additional Government Pleader appearing on behalf of Mr.S.Thirulogachandar, Assistant Commissioner (ST), Omalur - the contemner present in court, that in terms of the directions issued by this Court in the said writ petition, TDS was deducted, assessment proceedings were initiated and the same was completed subsequently. The assessment was challenged before this Court and the matter was remanded for a fresh consideration of assessment. The entire assessment has been completed and a total sum of Rs.18,39,974/- has been recovered from the sixth respondent and a total sum of Rs.20,83,355/- has been recovered from the fifth respondent.

7. The petitioner would persistently state that the total sum to be recovered is Rs.45 lakhs.

8. Unfortunately, this Court is not a recovery agency and all that is required to be seen is as to whether there is any willful disobedience of the order and directions issued by this Court. This Court finds that there is no willful disobedience and the Commercial Taxes Department complied with the direction regarding TDS. Apart from that,

they completed the assessment and recovered tax. Therefore, this Court finds that no contempt is made out.

9. In the light of the above, the contempt petition is dismissed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

RS

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER (O.S.)

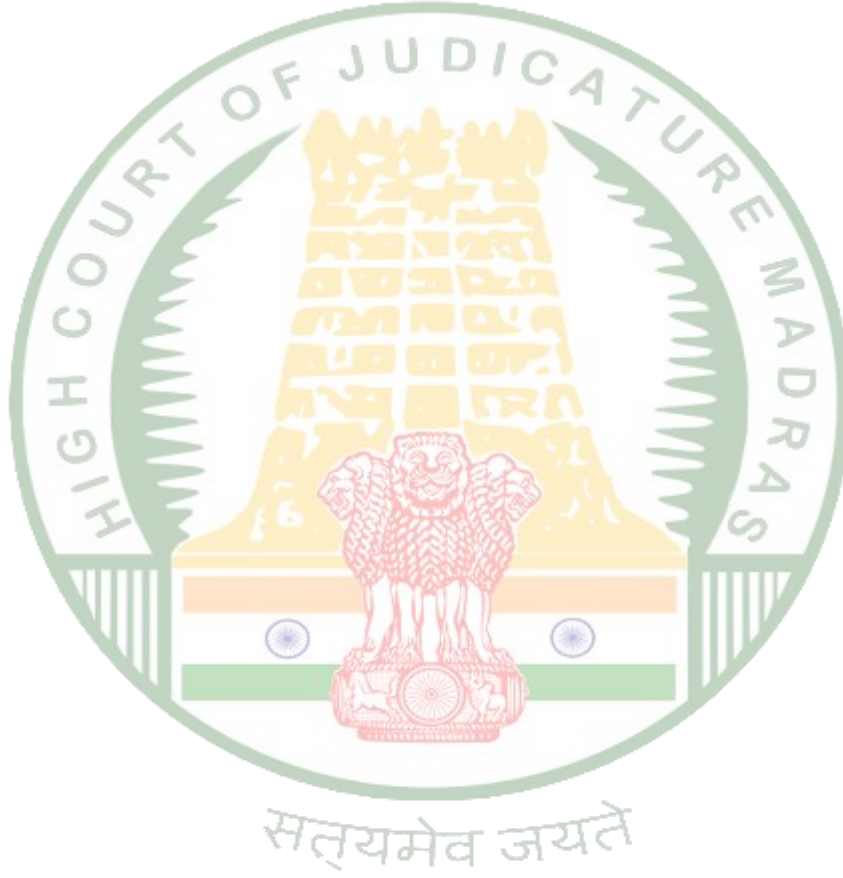
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SMI/12/02/2020

To

1. THE DISTRICT COLLECTOR,
SALEM DISTRICT, SALEM-1.
2. THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY,
SALEM-1.
3. THE BLOCK DEVELOPMENT
OFFICER (VILLAGE PANCHAYAT),
KOLATHUR BLOCK-636303, METTUR
TALUK, SALEM DISTRICT.
4. THE COMMISSIONER/
BLOCK DEVELOPMENT OFFICER (BLOCK
PANCHAYAT), KOLATHUR BLOCK-636303,
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OMALUR.
6. THE JOINT COMMISSIONER (TERRITORIAL),
COMMERCIAL TAXES, SALEM DIVISION,
SALEM.



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