



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P. (MD) Nos.19866, 19869, 20011, 20126, 20845 of 2013, 700 and 1677
of 2014 and M.P.Nos.1 of 2013 (5 Petitions) and 2 of 2013 (4
Petitions), M.P.No.1 of 2014 (2 Petitions)

WP (MD) .No. 19866/ 2013

Ilanthalir Recreation Club,
represented.By its Secretary, S.Koodalingam,
85, V.K.S.Avenue Road,
Sivakasi, Virudhunagar District ... Petitioner

VS

1. The State of Tamil Nadu
represented.By the Secretary to Government,
Dept of Commercial Taxes,
Fort St.George, Chennai -600 009

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

3. The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Virudhunagar ... Respondents

Prayer in WP (MD) .No. 19866/ 2013 :

Writ Petition is 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 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 Articles 265 of the Constitution of India



For Petitioner .. Mr.P.Arunjayatram
For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for R1
Mr.H.Arumugam
Standing Counsel
for RR2 & 3

WEB COPY

WP (MD) .No. 19869/ 2013

Hotel Anbu,
represented by its Partner,
G.Anbuselvam ... Petitioner

vs

1. The State of Tamil Nadu
represented by the Secretary to Government,
Department of Commercial Taxes,
Fort St. George, Chennai 600 009.

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

3. The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Virudhunagar. ... Respondents

Prayer in WP (MD) .No. 19869/ 2013 :

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For Petitioner .. Mr.P.Arunjayatram
For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for R1
Mr.H.Arumugam
Standing Counsel for RR2 & 3



WP (MD) .No. 20011/ 2013

Hotel Sasidharan
represented by its Proprietor,
S. Marimuthu

... Petitioner

vs

1. The State of Tamil Nadu
represented by the Secretary to Government,
Department of Commercial Taxes,
Fort St. George,
Chennai 600 009.

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

3. The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Virudhunagar.

... Respondents

Prayer in WP(MD).No. 20011/ 2013 :

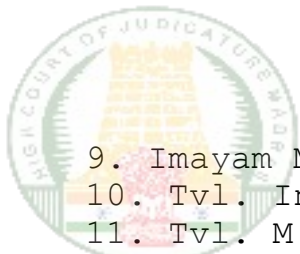
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For Petitioner .. Mr.P.Arunjayatram

For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for R1
Mr.H.Arumugam
Standing Counsel
for RR2 & 3

WP (MD) .No. 20126/ 2013

1. Tvl. Real Recreation Club, represented. by its Secretary.
2. Tvl. Venus Manamahil Mandram represented. by its Secretary
3. Kathiravan Recreation Club, represented. by its Secretary
4. Ex Servicemen Recreation Club represented. by its Secretary
5. Tata Manimahil Mandram, represented. by its Secretary
6. Rasi Recreation Club, represented. by its Secretary
7. Titan Recreation Club, represented. by its Secretary
8. Theni Thai Manamahil Madram, represented. by its Secretary



9. Imayam Manamahil Madram, represented. by its Secretary
 10. Tvl. Indian Recreation Club, represented. by its Secretary
 11. Tvl. M.R.K. Manamahil Mandram, represented. by its Secretary
 12. Tvl. Meenakshipuram Star Manmahil Mandram, represented. by its Secretary
 13. Manmahil Mandram, represented. by its Secretary
 14. Tvl. Ruby Recreation Club, represented. by its Secretary
 15. Tvl. Cosmo Recreation Club, represented. by its Secretary
 16. Tvl. Robin Recreation Club, represented. by its Secretary
 17. Tvl. Gudalur Star Recreation Club, represented. by its Secretary
 18. Tvl. Five Star Recreation Club, represented. by its Secretary
 19. Tvl Thendral Recreation Club, represented. by its Secretary
 20. Tvl. Alli Nanbargal Manamagil Mandram, represented. by its Secretary
 21. Tvl. Royal Manamagil Mandram, represented. by its Secretary
 22. Tvl. Three Star Manamagil Mandram, represented. by its Secretary
 23. Tvl. Diayana Manamagil Mandram, represented. by its Secretary
 24. Tvl. Solai Thendral Recreation Club, represented by its Secretary
 25. Tvl. Poonjolai Recreation Club, represented. by its Secretary
 26. Tvl. Golden Recreation Club, represented. by its Secretary
- ... Petitioners

vs

1. The State of Tamil Nadu,
represented. by the Secretary to Government,
Law Department, Fort St.George, Chennai.
 2. The Secretary to Government,
Commercial Taxes & Registration Department
Government of Tamil Nadu, Fort St.George, Chennai-9.
 3. The Managing Director,
T A S M A C, CMDA Tower, 4th Floor,
Gandhi Irwin Bridge Road, Egmore, Chennai-8.
 4. The District Manager, T A S M A C, Theni District
 5. The District Manager, T A S M A C,
Madurai District
- ... Respondents

Prayer in WP(MD).No. 20126/ 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

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



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 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 Petitioners .. Mr.C.Veerakathiravan for
M/s Veera Associates

For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for R1
Mr.H.Arumugam
Standing Counsel
for RR2 & 3

WP (MD) .No. 20845/ 2013

Tvl. Melachokkanathapuram Vanavil Nanbargal Manamhil Mandram
represented by its Secretary. ... Petitioner
- Vs. -

- 1.The State of Tamil Nadu
represented by the Secretary to Government,
Law Department Fort St. George, Chennai.
- 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
Tami Nadu State Marketing Corporation
Theni District ... Respondents

Prayer in WP (MD) .No. 20845/ 2013 :

Writ Petition is 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 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 8.11.2013 as ultra vires,

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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 1.4.2013.

For Petitioners .. Mr.Veerakathiravan for
M/s Veera Associates

For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for RR 1 & 2
Mr.B.Jameel Arasu
Standing Counsel for RR3 & 4

WP (MD) .No. 700/ 2014 :

N.Vanjimuthu ... Petitioner

vs

1. The State of Tamil Nadu,
represented. by the Secretary to Government, Law Department
Fort.St.George, Chennai

2. The Secretary to Government,
Commercial Taxes and Registration Department
Government of Tamil Nadu, Fort.St.George, Chennai 9

3. The Managing Director, T A S M A C, CMDA Tower ,
4th Floor, Gandhi Irwin Bridge Road, Egmore, Chennai 8

4.The District Manager, T A S M A C,
Dindigul District ... Respondents

Prayer in WP (MD) .No. 700/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Declaration, in the nature of writ 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, unconstititutional 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.



For Petitioner .. Mr.V.Janakiramulu
For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for RR1 & 2

WEB COPY

Mr.H.Arumugam
Standing Counsel
for RR3 & 4

WP (MD) .No. 1677/ 2014

R.S.S. Kanmani Raja ... Petitioner

vs

1. The Principal Secretary to Government,
Commercial Taxes and Registration Department
Government of Tamilnadu, Fort St. George, Chennai.

2. The Managing Director
T A S M A C, C M D A Tower, 4th Floor,
Gandhi Irwin Bridge Road,
Egmore, Chennai.

3. The Deputy Collector/ District Manager, T A S M A C,
Dindigul. ... Respondents

Prayer in WP (MD) .No. 1677/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring that the Section 1(2) (b) of the Tamilnadu Value Added Tax (5th Amendment) Act, 2013 as published in the Tamilnadu Government Gazette No.329, dated 08.11.2013 in so far as it relates to the Petitioner's Lodge is concerned, as arbitrary, as arbitrary, unjust, illegal, unconstitutional and unenforceable in law.

For Petitioner .. Mr.J.Lawrance
For Respondents .. Mrs.J.Padmavathi Devi, Spl GP
for R1

Mr.H.Arumugam
Standing Counsel, for RR2 & 3



COMMON ORDER

(Order of the Court was made by **SUBRAMONIUM PRASAD, J.**)

The present batch of writ petitions raise a challenge to the levy of sales tax on the ground that preferential treatment to TASMAC had been given and, therefore, the action taken is unconstitutional.

2. It has been pointed out by learned Counsel for the State that the said issue now has been concluded by the Division Bench of this Court in the case of **Hotel & Bar (Fl.3) Association of Tamil Nadu (HOBAT) Vs. Secretary to Government, Commercial Taxes Department and others reported in (2015) 2 CWC 105.**

3. Having perused the said judgment, we see no reason to take a different view in the matter as the issue raised stands concluded by the aforesaid Division Bench judgment in the case of **Hotel & Bar** (supra).

4. Accordingly, these Writ Petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TO

1.The Secretary to Government,
State of Tamil Nadu,
Dept of Commercial Taxes,
Fort St.George, Chennai -600 009

2.The Secretary to Government,
State of Tamil Nadu,
Law Department, Fort St.George, Chennai-9.

3. The Principal Secretary to Government,
Comemrcial Taxes and Registration Department
Government of Tamilnadu, Fort St. George, Chennai-9.



4. The Managing Director,
T A S M A C, CMDA Tower, 4th Floor,
Gandhi Irwin Bridge Road, Egmore, Chennai-8.

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5.The Deputy Collector/ District Manager,
TASMAC, Dindigul.

6.The Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Virudhunagar.

7.The District Manager,TASMAC, Theni District.

8.The District Manager,TASMAC, Madurai District.

9.The District Manager,TASMAC, Dindigul District.

+1cc to M/s.Special Government Pleader, SR No.8096,8105,8084,8085

+1cc to Mr.B.Jameel Arasu, Advocate, SR No.8255

+1cc to Mr.J.Lawrance, Advocate, SR No.7756

+1cc to Mr.V.Janakiramulu, Advocate, SR No.8578

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of 2014 and M.P.Nos.1 of 2013 (5 Petitions) and 2 of 2013 (5
Petitions), M.P.No.1 of 2014 (2 Petitions)
24.2.2020

sasi/rsb
KK/04.03.2020/9P-14C