



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.09.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10799 of 2020

and

W.M.P(MD)Nos.9500 & 9501 of 2020

P.Baskaran

...Petitioner

-Vs-

The District Manager/Deputy Collector,
Tamil Nadu State Marketing Corporation,
Thanjavur.

...Respondent

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned memorandum issued by the 1st respondent in Na.Ka.No.166/2020/ml dated 04.03.2020 and quash the same as illegal.

For Petitioner

: Mr.C.M.Arumugam

For Respondent

: Mr.H.Arumugam,
Standing Counsel

ORDER

The prayer sought for in this writ petition is for a Writ of Certiorari, to call for the records pertaining to the impugned memorandum issued by the 1st respondent in Na.Ka.No.166/2020/ml dated 04.03.2020 and quash the same.

2.Heard Mr.C.M.Arumugam, learned counsel appearing for the petitioner, Mr.H.Arumugam, learned Standing Counsel appearing for the respondent, with the consent of both sides, the writ petition is being disposed of at the admission stage itself.

3. The petitioner is an employee working in the TASMACH Shop No.8126 under the respondent. While so, on 07.02.2020 what was the total sale amount collected by the petitioner, from the said shop at the end of the day, as per the Rule, should have been remitted on the next day i.e., on 08.02.2020. In this regard, the total amount collected on the day was Rs.4,45,600/-, the said amount could have been deposited in the Bank as per Rule, on 08.02.2020, however, on 08.02.2020 and 09.02.2020 since the Banks are holidays, he had remitted the same on 10.02.2020.



4. In this case, the petitioner, through the learned counsel appearing for the petitioner, submits that on 10.02.2020 he has remitted the amount to the Bank and the same was credited on the next day, therefore, on the part of petitioner, he has not violated any regulations.

5. However, the respondent, in the impugned order, states that the petitioner could not get any documents from the Bank, especially, that he remitted the said amount on 10.02.2020. Assuming that he had not remitted on 10.02.2020 and without even disclosing what date he has remitted the amount, straight away the respondent passed the impugned order whereby fixing the responsibility on the petitioner and accordingly, penalty of Rs.2,56,283/- which includes GST and interest have been imposed through the impugned order against the petitioner.

6. On prima facie, this Court finds that, before verifying from the Bank records, this impugned order has been passed, this position has not been controverted by the learned Standing Counsel appearing for the respondent. He would fairly submit that, this order can be set aside and remitted back to the respondent, where, after verifying the Bank records, suitable decision would be taken and necessary orders to that effect would be passed, of course, after hearing the petitioner. The said stand taken by the learned Standing Counsel appearing for the respondent is taken on record and in view of the above, this Court is inclined to dispose of this writ petition, with the following orders:

" the impugned order, dated 04.03.2020 is quashed for the aforesaid reasons and the matter is remitted back to the respondent for reconsideration. On such reconsideration, the respondent shall get a report from the Bank as to whether the petitioner, as claimed by him, had remitted the amount on 10.02.2020 and in that case, whether the same has been credited into the respondent's account on the same day and only after getting all these reports from the Bank, if the respondent decide to proceed, they can do so, but in that case, an opportunity shall be given to the petitioner.

7. With this observations and directions, the writ petition is disposed of as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

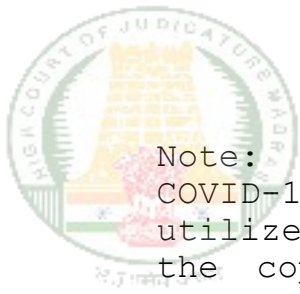
Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to Mr.H. ARUMUGAM, Advocate (SR-16014[F] dated 04/09/2020)

Order made in
W.P. (MD) No.10799 of 2020
03.09.2020

VB (01.10.2020) 3P 2C