



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4124 of 2014
& M.P.No.1 of 2014

Majestic Recreation Club,
Rep. By its Secretary A.P.Senthil Rajavel,
S/o.A.Palanichamy,
No.96/4, KRR Layout,
Rajavaikkal Veethi,
Karuvampalayam,
Tiruppur District.

..Petitioner

Vs.

1. The State rep. By,
Secretary to Government,
Commercial Taxes & Registration Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Assistant Commissioner for Commercial Taxes,
Office of the Assistant Commissioner,
Chennai.
3. Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC) Rep. by its Chairman & Managing Director,
CMDA Tower, 4th Floor,
No.8, Gandhi Irwin Road,
Egmore, Chennai 600 008.
4. The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Tirppur, Tiruppur District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order dated 27.11.2013 made in Na.Ka.No.316-2013-A4 passed by the 4th respondent and quash the same.



WEB COPY

For Petitioner : Mr.C.Yokesh

For Respondents : Mr.V.Veluchamy (For R1 & R2)
(Government Advocate)

Mr.K.Sathishkumar (For R3 & R4)
(Standing Counsel for TASMAC)

ORDER

The order passed by the Hon'ble Division Bench of this Court in W.P.(MD).No.4261 of 2014 is placed before this Court. The demand made in the present case is on account of the retrospective operation of the statutory provision pursuant to the Tamil Nadu Value Added Tax (5th Amendment) Act, 2013. In view of the new notification of the Government dated 21.04.2015, the demand made on the petitioner is unsustainable. The issue involved in the present Writ Petition as well as the order passed by the Division Bench of this Court is also similar in nature. The relevant paragraphs of the order of the Division Bench are extracted hereunder:

"2.In the Principal Bench, the South India Hotels and Restaurants Association had filed writ petition in W.P.No.995 of 2014, seeking for a declaration to declare Section 1(2)(b) of the Tamil Nadu Value Added Tax (5th Amendment) Act, 2013, insofar as it relates to the members of the said Association is concerned as arbitrary, unjust, illegal, unconstitutional and unenforceable in law. When the case came up before the Division Bench, the counsel for the Revenue submitted that the retrospective demands stands waived in view of the Notification issued by the Government dated 21.04.2015. Recording the same, the said writ petition was disposed of.

3.The learned counsel for the respondent TASMAC represented that the petitioner has challenged only the demand and has not sought for any writ of declaration in this petition.

4.However, the demand is on account of the retrospective operation of the statutory provision pursuant to the 5th Amendment Act, 2013. In the light of the new notification of the Government dated 21.04.2015, the demand made on the petitioner is unsustainable.

5.Accordingly, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed."



2. In view of the fact that the issues raised in this Writ Petition was already considered by the Hon'ble Division Bench of this Court, the impugned demand notice issued by the 4th respondent in proceedings Na.Ka.No.316-2013-A4 dated 27.11.2013 is quashed and the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Secretary to Government,
State of Tamil Nadu,
Commercial Taxes & Registration Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Assistant Commissioner for Commercial Taxes,
Office of the Assistant Commissioner,
Chennai.
3. The Chairman & Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC)
CMDA Tower, 4th Floor,
No.8, Gandhi Irwin Road,
Egmore, Chennai 600 008.
4. The District Manager,
Tamil Nadu State Marketing Corporation Ltd.,
Tirppur, Tiruppur District.

+1cc to the Special Government Pleader, S.R.No.34076

W.P.No.4124 of 2014

AK(CO)
HS(03/08/2021)