BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2021

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.21427 of 2021

& WMP(MD) Nos.17990 & 17992 of 2021

S.Jaya Raja Rajeshwaran,
State Tax Officer,
Madurai Rural(West) Assessment Circle,
Commercial Taxes Buildings,
Dr.Thangarajan Salai,
Madurai-625 020 ... Petitioner

Vs.

The Principal Secretary/Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005 ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the respondent in Proc.No.P1/02-17/108/2021 dated 22.11.2021 and quash the same as illegal and unlawful and consequently direct the respondent to permit the petitioner to continue in service as State Tax Officer, Madurai Rural(West) Assessment Circle, Madurai State Taxes Division, Madurai.

For Petitioner : Mr.J.Pooventhera Rajan

For Respondents : Mr.Veera Kathiravan, learned AAG assisted by Mr.S.Shaji Bino, learned Spl.GP.

ORDER

Heard Mr.J.Pooventhera Rajan, learned counsel appearing for the petitioner and Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr. S.Shaji Bino, learned Special Government Pleader appearing for the respondent.

2.This Writ Petition has been filed, challenging the order of transfer on the ground that the petitioner has been transferred from Madurai State Tax Division to Tiruchirapalli State Tax Division vide impugned order of the respondent in Proc.No.P1/02-17/108/2021 dated 22.11.2021 during the non-transfer period.

3.The learned counsel for the petitioner would submit that the transfer of the Commercial Tax Officers is guided by G.O.Ms.No.184, Commercial Taxes and Religious Endowments Department dated 16.06.1994 and as per the guidelines issued in relating to the transfer and postings of ACTOs and DCTOs, under Clause 21 of the said guidelines, a Commercial Tax Officer is not supposed to be transferred during the non-transfer period. The relevant Clause 21, is extracted hereunder:

> ''21. An Assistant Commercial Tax Officer or a Deputy Commercial Tax Officer, who has completed the statutory or other period of service in a station/post as required in these guidelines shall not be transferred during the non-transfer period(1st July to 31st March of the next year) but shall be transferred only during the transfer period i.e., between 1st April to 30th June.''

Therefore, the learned counsel for the petitioner submits that the transfer order inflicted against the petitioner during the non-transfer period, is liable to be set aside.

4.Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr. S.Shaji Bino, learned Special Government Pleader appearing for the respondent submits that subsequently, the transfer period has been extended by way of amendment vide G.O. in G.O.(Ms) No.137, Commercial Taxes and Registration (A1) Department dated 12.10.2021, wherein, the period of General Transfer is extended upto 30.11.2021 in the Cadre of Deputy Commercial Tax Officer and above in Commercial Taxes Department for the year 2021. The relevant portion is extracted here under:

> ''4.The Government, after careful examination of the proposal of the Principal Secretary/Commissioner of Commercial Taxes have decided to accept and extend the period of General Transfer upto 30.11.2021 in the Cadre of Deputy Commercial Tax Officer and above in Commercial Taxes Department for the year 2021 by exempting the Commercial Taxes Department from the orders issued in Government order third read above and order accordingly.''

5.In view of the above amendment passed by the Government in regard to the transfer of Commercial Tax Officer in G.O.(Ms) No.137, Commercial Taxes and Registration (A1) Department dated 12.10.2021, this Court is not inclined to entertain the Writ Petition.

6.Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, it is always open to the petitioner to challenge the said Government Order in the manner known to law, if he is so advised.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

To:

The Principal Secretary/Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005

+1 CC to M/s.J.POOVENTHERARAJAN, Advocate (SR-37251[F] dated 03/12/2021)

+1 CC to M/s.SPL GP (SR-37385[F] dated 06/12/2021)

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