IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.29311 of 2022 and
WMP.Nos.28611, 28612 & 28613 of 2022

Skyrams Outdoor Advertising India Pvt. Ltd.
Represented by its Authorised Signatory,
S.F.No.339/2A, 3A, Nava India Road,
Krishnarajapuram Village, Peelamedu,
Coimbatore-641 004. ...Petitioner

Vs.

1.The District Collector,
Coimbatore District,
Coimbatore 641 018.
2.Coimbatore City Municipal Corporation
represented by its Commissioner,
Coimbatore 641 001.
3.Personal Assistant (General)
to the District Collector,
Coimbatore 641 018. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus calling for the records of the 1st respondent in Na.Ka.No.4004/2016/U4 dated 26.08.2019 and Na.Ka.4004/2016/U4 dated 06.09.2020 and of the 3rd respondent in Na.Ka.4004/2016/U4 dated 24.12.2020 and Na.Ka.4004/2016/U4 dated 05.02.2021 and quash the same insofar as they relate to the demand for payment of Advertisement Tax and directing the 1st respondent to forthwith renew the license issued in his proceedings Na.Ka.No.4004/2016/K1 dated 16.09.2016 for the remaining periods without insisting upon payment of Advertisement Tax and also to refund the amount of Rs.4,81,250/- illegally collected from the petitioner towards Advertisement Tax for the period from 01.07.2017.

For Petitioner : Mr.N.Mathivanan

For Respondent : Mr.R.U.Dinesh Rajkumar [R1 & R3]
Additional Government Pleader
: Mr.N.Velmurugan [R2]
Standing Counsel

ORDER

Read this order in conjunction with order dated 04.11.2022, reading thus:

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for R1 & R3 and Mr.N.Velmurugan, learned Standing Counsel accepts notice for R2 and both learned counsel seeks some time to obtain instructions and file a counter.

2. The petitioner is an advertising agency and had been the successful bidder in a tender issued by the Coimbatore City Municipal Corporation for repair of existing bus shelter and construction of a new bus shelter, as per design, at the petitioner's cost.

3. An agreement was entered into between the petitioner and R2 and a work order was issued on 10.08.2015. The agreement was for a period of 15 + 5 years and by proceedings dated 16.09.2016, R1, being the District Collector, Coimbatore District, granted a licence of three years for exhibition of advertisements in the bus shelters.

4. It is the case of the petitioners that it has been paying advertisement tax levied by the State and the Service Tax Authorities separately as set out in the agreement. During the currency of the of the agreement, Goods and Service Tax Act, 2017 (in short 'Act') came into being with effect from 01.07.2017 and it is the petitioners' case that with the coming into force of the aforesaid Act, the petitioners' liability towards *advertisement tax ceases, since the levy stands subsumed with GST.*

5. The petitioner thus, unilaterally stopped remitting advertisement tax on the basis of its understanding of the legal provision. The respondents for their part determining the advertisement tax arrears payable by the petitioner, vide two proceedings of R1 dated 26.08.2019 and 06.09.2020 and two proceedings of R3/the Personal Assistant (General) to the District Collector dated 24.03.2020 and 05.02.2021, called upon the petitioner to remit the arrears under threat of coercive action.

6. It is an admitted case that the licence of the petitioner was valid only till 2019 and has, as on date, expired and there has been no renewal thereafter, though applications filed by the petitioner prior to expiry are pending consideration. In such circumstances, it is necessary that the respondents take a view forthwith in regard to the determination of the tax liability and answer the question raised by the petitioners as to whether the liability to advertisement tax survives.

7. For this purpose and seeing as the response of the petitioner to the communication of the first and third respondents has been admittedly been received by them, the petitioner will appear before R1 on Friday, the 11th of November, 2022 at 10.30 a.m with all evidences in support of its stand. After hearing the petitioner, an order shall be passed on the legal issue raised in regard to liability to advertisement tax, on or before 01.12.2022.

8. List on 02.12.2022 under the caption 'for production of orders'.

2. Today a copy of proceedings of the District Collector, Coimbatore bearing Ref.No.4004/2016/E4 dated 01.12.2022 is placed before me as a consequence of hearing conducted on 11.11.2022 and thereafter. The conclusion therein is adverse to the petitioner insofar as the Authorities

therein have recomputed the advertisement tax and have notified the petitioner that, upon settlement of the arrears, it may apply for grant of license in terms of the applicable Government orders.

3. This order is stated to have been dispatched to the petitioner and a copy of the same will be supplied forthwith to the petitioner counsel as well.

4. With this, the order impugned in this writ petition requires no further intervention and recording the aforesaid, this writ petition is closed. However, liberty is granted to the petitioner to challenge proceedings dated 01.12.2022, in accordance with law. No costs. Connected miscellaneous petitions are closed.

02.12.2022

ska
Index : Yes/No
Speaking Order

To

1.The District Collector,
Coimbatore District,
Coimbatore 641 018.

2.Coimbatore City Municipal Corporation
represented by its Commissioner,
Coimbatore 641 001.

3.Personal Assistant (General)
to the District Collector,
Coimbatore 641 018.

DR.ANITA SUMANTH,J.
Ska

W.P.No.29311 of 2022 and
WMP.Nos.28611, 28612 & 28613 of 2022

02.12.2022