BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)Nos.1488 to 1494 of 2022
and
Connected Miscellaneous Petitions

W.P.(MD)No.1488 of 2022:-

Guru Star Recreation Club,
Rep. by its Secretary Subbaraj ... Petitioner

vs.

1) The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Commercial Taxes,
Fort St.George, Chennai-600 009.

2) The Commissioner of Commercial Taxes,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai-600 005.

3) The State Tax Officer,
Office of the State Tax Officer,
Sattur-1,
Virudhunagar District.

4) The Commissioner of
Prohibition and Excise Department,
Ezhilagam, Chennai. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Declaration, declaring that the definition in Sec.2(15) (ix) to Explanation I and Sec.2(33)(vi) to Explanation I of Tamil Nadu Value Added Tax Act, 2006 are void, unconstitutional, inoperative and unenforceable and the recoveries pursuant thereto are without authority of law and infringe Article 19(g) and 265 of the Constitution of India.

W.P.(MD)No.1489 of 2022:-

The Cape Club,

Rep. by its Secretary G.Manikrishnan,

... Petitioner(s) in WP(MD). 1489/ 2022

- Vs. -

1. The Government of Tamil Nadu

Rep. by its Principal Secretary,

Department of Commercial Taxes, Fort St. George,

Chennai 9.

2. The Commissioner of Commercial Taxes,

Commercial Taxes Dept., Ezhilagam,

Chepauk, Chennai 5.

3. The State Tax Officer (ST), Office of the State Tax Officer, Nagercoil (Rural),

Kanyakumari District

4. The Commissioner Of Prohibition and Excise Department, Ezhilagam, Chennai.

... Respondent(s) in WP(MD). 1489/ 2022

W.P.(MD)No.1490 of 2022:-

Metro City Club,

Rep. by its Secretary M.Gopalakrishnan,

... Petitioner(s) in WP(MD). 1490/ 2022

- Vs. -

1. The Government of Tamil Nadu

Rep. by its Principal Secretary,

Department of Commercial Taxes,

Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes,

Commercial Taxes Dept., Ezhilagam,

Chepauk, Chennai 600 005.

3. The State Tax Officer (ST) Office of the State Tax Officer,
Nagercoil (Rural),
Kanyakumari District

4. The Commissioner , Prohibition and Excise Department,
Ezhilagam, Chennai.

... Respondent(s) in WP(MD). 1490/ 2022

WP(MD). 1491/ 2022 :

Harshini Recreation Club,
Rep. by its Secretary N.Murugan,

... Petitioner(s) in WP(MD). 1491/ 2022

- Vs. -

1. The Government of Tamil Nadu
Rep. by its Principal Secretary,
Department of Commercial Taxes,
Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes,
Commercial Taxes Dept., Ezhilagam,
Chepauk, Chennai 600 005.

3. The Commercial Tax Officer,
O/o. the Commercial Tax Officer,
Srivilliputhur, Virudhunagar District

4. The Commissioner, Prohibition and Excise Department, Ezhilagam,
Chennai.

... Respondent(s) in WP(MD). 1491/ 2022

WP(MD). 1492/ 2022 :

Winner Recreation Club
Rep. by its Secretary S.Vivekanandan

... Petitioner(s) in WP(MD). 1492/ 2022

- Vs. -

1. The Government of Tamil Nadu
Rep. by its Principal Secretary,
Department of Commercial Taxes,
Fort St. George, Chennai 9.

2. The Commissioner of Commercial Taxes,,
Commercial Taxes Dept.,
Ezhilagam, Chepauk, Chennai 5.

3. The assistant Commissioner (ST)
Office of the Assistant Commissioner ,Rajapalayam-2
Virudhungar District

4. The Commissioner,Prohibition and Excise Department,
Ezhilagam, Chennai.

... Respondent(s) in WP(MD). 1492/ 2022

WP(MD). 1493/ 2022:-

Kuil Recreation Club
Rep. by its Secretary M.Karuppasamy

... Petitioner(s) in WP(MD). 1493/ 2022

- Vs. -

1. The Government of Tamil Nadu
Rep. by its Principal Secretary,
Department of Commercial Taxes,
Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes,
Commercial Taxes Dept., Ezhilagam, Chepauk,
Chennai 5.
3. The Commercial Tax Officer,
Office of the Commercial Tax Officer, Srivilliputhur,
Virudhungar District
4. The Commissioner,Prohibition and Excise Department,
Ezhilagam, Chennai.

... Respondent(s) in WP(MD). 1493/ 2022

WP(MD). 1494/ 2022 :

Vennila Recreation Club,
Rep. by its Secretary A.Muthukumar

... Petitioner(s) in WP(MD). 1494/ 2022

- Vs. -

1. The Government of Tamil Nadu
Rep. by its Principal Secretary,
Department of Commercial Taxes,
Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes,
Commercial Taxes Dept.,
Ezhilagam, Chepauk,
Chennai 600 005.

3. The Commercial Tax Officer,
Office of Commercial Tax Officer,
Srivilliputhur
Virudhungar District
4. The Commissioner,Prohibition and Excise Department,
Ezhilagam, Chennai.

... Respondent(s) in WP(MD). 1494/ 2022

Prayer in all WPs:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Declaration, declaring that the definition in Sec.2(15)(ix) to Explanation I and Sec.2(33)(vi) to Explanation I of Tamil Nadu Value Added Tax Act, 2006 are void unconstitutional inoperative and unenforceable and the recoveries pursuant thereto are without authority of law and infringe Article 19(g) and 265 of the Constitution of India and pass such further or other ordres as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice

For Petitioner(in all WPs) : Mr.T.Bashyam
For Respondents(in all WPs): Mr.S.R.A.Ramachandran
Additional Government Pleader

COMMON ORDER
(Order of the Court was made by
PUSHPA SATHYANARAYANA, J.)

The writ petitions have been filed for a declaration, to declare that the definition in Sec.2(15) (ix) to Explanation I and Sec.2(33)(vi) to Explanation I of the Tamil Nadu Value Added Tax Act, 2006, are void, unconstitutional, inoperative and unenforceable and the recoveries pursuant thereto are without any authority of law and infringe Articles 19(g) and 265 of the Constitution of India.

2. The learned counsel for the petitioners himself stated that similar matters have already been decided by the Division Bench of this Court in the case of **M/s.The Masters Club and another vs. Government of Tamil Nadu and others in W.P(MD)Nos.23012 and 23030 of 2019 dated 01.11.2019** and this Court has passed an order directing the petitioners therein to give a reply to the notices issued by the Assistant Commissioner in the light of the decision of the Hon'ble Supreme Court in the case of **State of West Bengal and others vs. Calcutta Club Limited in Civil Appeal No.4184 of 2009, dated 03.10.2019.**

3. Accordingly, following the same, these Writ Petitions are also disposed of, on the same terms as has been mentioned in the order dated 01.11.2019. It is open to the petitioners to give appropriate and suitable reply to the notices issued by the Assistant Commissioner which may be considered by the authorities in the light of the decision of the Hon'ble Supreme Court in the case of **State of West Bengal and others vs. Calcutta Club Limited** (cited supra).

4. With the above direction, the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1) The Principal Secretary,
Department of Commercial Taxes,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.

2) The Commissioner of Commercial Taxes,
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Chennai-600 005.

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Virudhunagar District.

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Ezhilagam, Chennai.

5. The State Tax Officer (St)
Office of the State Tax Officer,
Nagercoil (Rural),
Kanyakumari District

6. The Commercial Tax Officer,
the Commercial Tax Officer,
Srivilliputhur, Virudhunagar District

7. The Assistant Commissioner (ST)
Office of the Assistant Commissioner ,Rajapalayam-2
Virudhungar District

+1 CC to M/s.SPL.GP (SR-3096[F] dated 31/01/2022)

W.P(MD)Nos.1488 to 1494 of 2022
DATED : 28.01.2022

SK(CO)
KB(21.02.2022) 7P 9C