BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.21343 of 2022
and
W.M.P(MD)Nos.15493, 15495 and 15496 of 2022

T.Ashok ... Petitioner

Vs.

1.The Secretary to Government,
Hindu Religious Charitable and Endowments Department,
St.George Fort, Chennai.

2.The Commissioner,
Hindu Religious Charitable and Endowments Department,
Chennai.

3.The Joint Commissioner,
Hindu Religious Charitable and Endowments Department,
Thiruvanaikovil,
Trichy District.

4.The Joint Commissioner/Executive Officer/Fit Person,
Arulmighu Samayapuram Mariamman Temple,
Samayapuram, Trichy District. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned auction notice of the fourth respondent, dated 05.08.2022 in R.C.No.12984/1431/C4-1 as far the Clause-36 is concerned and quash the same.

For Petitioner : Mr.S.Ramsundarvijayraj
For R1 to R3 : Mr.M.Prakash
Additional Government Pleader
For R4 : Mr.S.Ramesh

ORDER

This writ petition has been filed challenging Clause-36 of E-auction notice in R.C.No.12984/1431/C4-1, dated 05.08.2022, which reads as under:

> *"36. After the expiry of the license period, obtaining clearance certificate a) No tax due to the Government including Income Tax, GST, etc. is due for the granting of hair collection license from the concerned departments and submitting it to the temple deposit amount of Rs.50 lakh out of Rs.40 lakh only will be refunded. b) After the completion of the Audit, for the license period and the receipt of the Audit report, the remaining deposit amount of Rs.10,00,000/- (Rupees Ten Lakhs) paid for the auction will be returned after consideration of the Audit report."*

2. It is submitted by the learned counsel for the petitioner that under Goods and Service Tax, hair is exempted and therefore Clause-36, which provides for obtaining No Tax Due Certificate for the purpose of securing refund of the deposit amount is unworkable inasmuch as the Goods and Services Tax authorities may not be in a position to issue No Tax Due Certificate.

3. This Court is not inclined to examine the correctness or otherwise of the submission made inasmuch as the auction is not yet over. Further,

exemptions or non-liability under fiscal laws would depend on the policy of the concerned legislative body/Government, thus need not be a constant rather likely to keep varying from time to time. Moreover, the above clause would get triggered only upon the petitioner turning out to be a successful bidder in the auction and on expiry of licence period.

4. This Court is of the view that the present writ petition is premature. However, having said that, it is made clear that if the petitioner turns out to be the successful bidder and in case, he feels aggrieved by the operation of Clause-36, any observations made in this writ petition, shall not preclude the petitioner from challenging it at that point in time.

5. With the above observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

06.09.2022

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

sn

W.P(MD).No.21343 of 2022

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