BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

W.P(MD).No.21711 of 2022
and
W.M.P(MD)No.15866 of 2022

A1 Recreation Club and Bar,
Represented by its Secretary,
R.Kannan,
No.8/1251-2, West Parasakthi Nagar,
Pullalakottai Road,
Virudhunagar-626 101. ... Petitioner

**Vs.**

The State Tax Officer-I,
Office of the State Tax Officer-I,
Virudhunagar,
Virudhunagar District. ...Respondent

**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 Pre-Assessment Notice issued by the Respondent in Assessment No.33646503690/2021-2022, dated 02.05.2022 and quash the same.

For Petitioner : Mr.T.Bashyam
For Respondent : Mr.M.Ramesh
Government Advocate

**ORDER**

This writ petition has been filed challenging the impugned notice, dated 02.05.2022 for the year 2021-2022.

2. It is submitted by the learned counsel for the Petitioner that the question that may arise for consideration is whether Article 366 (29A) of the Constitution of India inserted pursuant to the 46$^{th}$ Amendment has done away with the principles of mutuality. The issue now stands resolved by the Hon'ble Supreme Court in the case of ***State of West Bengal Vs Calcutta Club Limited (Civil Appeal No.4184 of 2009)*** reported in ***(2019) 19 SCC 107*** and therefore, the impugned proceedings is without jurisdiction.

3. Mr.M.Ramesh, learned Government Advocate takes notice for the Respondent.

4. It is submitted by the learned Government Advocate for the Respondent that the issue raised involves factual enquiry and therefore, the Petitioner ought to have submitted his objections and the judgment of the Hon'ble Supreme Court is relevant, the same ought to have been relied upon by the petitioner and orders will be passed taking into account the judgment of the Hon'ble Supreme Court.

5. This Court finds merits in the submission of the learned Government Advocate for the Respondent. This Court is of the view that the writ petition filed challenging the notice is premature. It is open to the petitioner to submit his objections and if so advised, place reliance upon the judgment of the Hon'ble Supreme Court in ***State of West Bengal Vs Calcutta Club Limited (Civil Appeal No.4184 of 2009).*** If the Petitioner files any objections, appropriate orders shall be passed by the Assessing Authority taking into consideration the objections and dealing with the judgment of the Hon'ble Supreme Court.

6. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/11/2022

Sub Assistant Registrar(CS)

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To
The State Tax Officer-I,
Office of the State Tax Officer-I,
Virudhunagar,
Virudhunagar District.

+1 CC to M/s.T.BASHYAM, Advocate ( SR-45454[F] dated 16/09/2022 )

+1 CC to M/s.SPL.GP ( SR-45346[F] dated 16/09/2022 )

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