



W.P(MD).No.25538 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.25538 of 2022

and

W.M.P(MD)No.19616 of 2022

R.S.M.Recreation Club
Rep by its Secretary M.Sathish
S/o.R.S.Mohan
No.3300/1a4, Ward 6, Block 79,
Yagappa Nagar Main Road,
Iruthayapuram N.K.Road,
Thanjavur-613 006.

... Petitioner

Vs.

The State Tax Officer,
Office of the State Tax Officer,
Thanjavur-1.

...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 notice issued by the respondent in TIN No. 33506377119, dated 28.09.2022 and quash the same.

For Petitioner : Mr.T.Bashyam
For Respondent : Mr.M.Siddharthan
Additional Government Pleader



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ORDER

This writ petition has been filed challenging the impugned notice issued by the respondent, in TIN No.33506377119, dated 28.09.2022

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 46th 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.Siddharthan, learned Additional Government Pleader 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 submit his objections and the judgment of the Hon'ble Supreme Court if relevant, the same may be relied upon by the petitioner, Orders will be passed taking into account the judgment of the Hon'ble Supreme Court and the objections, if any, filed.



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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 shall deal 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.

10.11.2022

Index : Yes / No
Internet : Yes/ No
Speaking Order/Non Speaking Order

sbm

To
The State Tax Officer,
Office of the State Tax Officer,
Thanjavur-1.



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MOHAMMED SHAFFIQ, J.

sbn

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