



WEB COPY



W.P(MD).No.25546 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.25546 of 2022

and

W.M.P(MD)No.19617 of 2022

Kadamalaigundu Thendral Manamahil

Mandram

Rep.by its Secretary S.Raja,

S/o.Savarimuthu

No.5A/12, Master Plan Complex Road,

Theni-625 531.

... Petitioner

Vs.

The Assistant Commissioner (ST),

Office of the Assistant Commissioner,

Theni-I Assessment Circle,

Theni-I.

...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. 33836504156/2021-22, dated 22.08.2022 and quash the same.

For Petitioner : Mr.T.Bashyam

For Respondent : Mr.M.Siddharthan

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned notice issued by the respondent, in TIN No.33836504156/2021-22, dated 22.08.2022.



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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 Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Theni-I Assessment Circle,
Theni-I.



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MOHAMMED SHAFFIQ, J.

sbn

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