



W.P.(MD)No.26400 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.26400 of 2022

and

W.M.P.(MD)Nos.20578 and 20581 of 2022

Tvl.Surya Recreation Club,
Represented by its Manager,
Mr.S.Kulandaisamy,
No.13/1A, Sabari Complex,
Thanjavur Main Road,
Tharanallur,
Tiruchirappalli District.

... Petitioner

Vs.

The Assistant Commissioner (CT),
Gandhimarket Assessment Circle,
Tiruchirappalli District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Respondent vide his proceedings in TIN No.33926503759/22-23 dated 19.10.2022 and the consequential impugned order passed by the Respondent vide his proceedings in TIN No.33926503759/2022-23 dated 19.10.2022 and the



W.P.(MD)No.26400 of 2022

consequential impugned order passed by the Respondent vide his proceedings in TIN No.33926503759/2022-23 dated 14.11.2022 and quash the same as illegal and consequently, to forbear the Respondent from assessing the Petitioner Club to service tax.

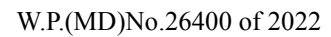
For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.M.Prakash
Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the impugned notice dated 19.10.2022 followed by another notice dated 14.11.2022.

2. It is the case of the Petitioner that the issue as to whether there is any sale of goods in the form of food, refreshments and drinks including liquors by the Petitioner to its permanent members and thus, the Petitioner is not liable to pay sales tax under Tamil Nadu Value Added Tax Act, 2006 stands resolved by the judgment of the Hon'ble Supreme Court in the case of *State of West Bengal vs. Calcutta Club Limited* reported in **2019 SCC Online SC 1291** , wherein, it has been held that doctrine of mutuality would



3. To the contrary, it is submitted by the learned Additional Government Pleader for the Respondent that this is only a notice and it may be necessary for the Petitioner to respond and demonstrate before the Assessing Officer, that they come within the ambit of the judgment of the Hon'ble Supreme Court in Calcutta Club's case.

4. I find that there is merit in the submission made by the learned Additional Government Pleader for the Respondent. The Petitioner are at liberty to submit their objections within a period of three weeks from the date of receipt of a copy of the order to the notice dated 14.11.2022. It is open to the Petitioner to place reliance on Calcutta's Club case. If any such objection is filed, the Respondent shall pass orders in accordance with law taking into account the judgment of the Hon'ble Supreme Court in the Calcutta's Club case after granting opportunity to the Petitioner within a period of three weeks from the date of receipt of a copy of the objection.



W.P.(MD)No.26400 of 2022

5. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

23.11.2022

Index : Yes / No

Speaking Order : Yes / No

vji



W.P.(MD)No.26400 of 2022

WEB COPY

To

1. The Assistant Commissioner (CT),
Gandhimarket Assessment Circle,
Tiruchirappalli District.
2. The Manager,
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W.P.(MD)No.26400 of 2022

MOHAMMED SHAFFIQ, J.

vji

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