IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

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THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.P.Nos.6201 & 6209 of 2023
and
WMP. Nos.6203, 6204, 6206, 6212, 6213 & 6215 of 2023

Skyrams Outdoor Advertisings India Pvt Limited,
Represented by its Authorized signatory,
S.F. No. 339 / 2A . 3A,
Nava India Road Krishnarajapuram village,
Peelamedu, Coimbatore 6. ... Petitioner in W.P.No.6201 of 2023

Shine outdoor Advertising Private Limited,
Represented by its Authorized signatory,
No. 161-A Avarampalayam Road,
New Sidhapudur, Coimbatore 641 004.

... Petitioner in W.P.No.6209 of 2023

Versus

1. Coimbatore City Municipal Corporation,
Represented by its commissioner,
Coimbatore 641 001.

2. The District collector,
Coimbatore District, Coimbatore 641 018.
... Respondents in both the petitions

Prayer in W.P.No.6201 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, Calling for the records of the 1st Respondent in Roc. No. 1924 / 2015 / MH5, dated 01.02.2023 and quash the same.

Prayer in W.P.No.6212 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, Calling for the records of the 1st Respondent in Roc. No. 7095/2015/MH5, dated 01.02.2023 and quash the same

For Petitioners	: Mr.Kandhan Duraisami
For Respondent	: Mr.Najeeb Ushman Khan R1
	Mr.K.M.D.Muhilan, AGP R2

COMMON ORDER

These writ petitions have been filed seeking to quash the order of the first respondent dated 01.02.2023 respectively cancelling the agreement.

2. The case of the petitioners is that the petitioners are an advertising agency for a long period and was granted licence for serving in the field of erecting and maintaining bus shelters, installing CCTV cameras at public places, erecting traffic signals etc., The first respondent demanded advertisement tax from the petitioners. The petitioners sent reply dated 09.09.2019 that the petitioners are not liable to pay advertisement tax w.e.f. 01.07.2017. On expiry of the license, the petitioners had submitted the

applications to the concerned respondent to renew the license for advertising in the bus shelters and the said applications were pending from the year 2019. As there was an Arbitration clause in the agreement entered into with the first respondent Corporation, the petitioners preferred O.P.No.520/2022 and 518/2022 seeking appointment of an Arbitrator to resolve the disputes arising out of the agreement including the collection of tax on advertisement. When the O.P. Came up for hearing on 27.10.2022, it was thought fit by the parties that the proper course of action regarding claim of waiver/remission of permission fee is to file claim petition before an Arbitrator and the issues relating to collection of tax on advertisement post GST era has to be agitated by filing a writ petition in W.P.Nos.31241 and 29311 of 2022 and the same is pending. In the meanwhile, the first respondent passed an order dated 01.12.2022 stating that the petitioners are liable to pay advertisement tax. Challenging the said order, the petitioners filed writ petition in W.P.No.143 of 2023 before this Court and this Court, by order dated 24.01.2023, stayed the order of the District Collector subject to the condition that the petitioners pay 50% of the demand. The petitioners had also complied with the said order and requested the District Collector for renewal of the license, but the District collector has issued the impugned order dated 01.02.2023 unilaterally cancelling the agreement.

Challenging the said impugned orders dated 01.02.2023, the petitioners have filed these writ petitions before this Court.

3. The learned counsel for the petitioners submitted that the first respondent has not taken into account the amount paid by the petitioner, citing the order of this Court in a similar writ petition, toward 50% of the demand made by the District Collector and passed the impugned order cancelling the agreement on the ground of violation of the conditions. The reasons given in the impugned orders are incorrect and the same is liable to be quashed.

4. The learned counsel for the petitioners further submitted that this Court may permit the petitioners to file necessary application before the Arbitration for appointment of the Arbitrator in this matter within the reasonable time as fixed by this Court. Till such time, this Court may direct the respondents not to take any coercive steps against the petitioners based on the cancelling order.

5. The learned Standing Counsel appearing on behalf of the first respondent have no objection for the submission made by the petitioners.

6. Heard the learned counsel for the petitioner as well as the learned Government Counsel appearing on behalf of the respondents and perused the materials available on record.

7. Considering the facts and circumstances of the case and in view of the submission made by the petitioners, this Court direct the petitioners to file necessary application before the Arbitral Court for appointment of Arbitrator or make reference to the same Arbitrator who has been appointed in O.P.No.510 of 2022 by this Court to resolve the issue within a period of two weeks from today. The respondents shall not take any coercive steps against the petitioners for a period of two weeks. If the petitioners fail to file an application before the Court for appointment of Arbitrator, the respondents may proceed with the matter as per law.

8. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

28.02.2023

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Note: Issue order copy on 02.03.2023

N.SATHISH KUMAR, J.

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To
1. Coimbatore City Municipal Corporation,
Represented by its commissioner,
Coimbatore 641 001.

2. The District collector,
Coimbatore District, Coimbatore 641 018.

W.P.Nos.6201 & 6209 of 2023

28.02.2023