IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.9003 of 2021 and
W.M.P. No.9537 of 2021

Tvl.Tamil Nadu Vanigar Sangankalin Peramaippu,
Represented by its President Thiru. K.M.R.Karthikeyan,
3/1227, Sattur Road,
Viruthunagar 626 001. ... Petitioner

Vs.

The Commissioner of Commercial Taxes,
Ezhilagam, 2nd Floor,
Chepauk,
Chennai 600 005. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondent to consider and pass an order on the representation dated 15.02.2021 on the file of the respondent.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondent : Mrs.E.Ranganayaki
Additional Government Pleader

ORDER

The writ petition is filed praying for a writ of mandamus to direct the respondent viz., the Commissioner of Commercial Taxes to examine the claim of waiver of Entry Tax.

2. A preliminary objection was raised by Mrs.Ranganayaki, learned Additional Government Pleader for the Respondent that the prayer cannot be entertained inasmuch as there is no power to the Commissioner to grant such waiver. It is submitted that the writ of mandamus would apply only when it is shown that the petitioner had a right and there was a corresponding obligation on the authority, but it failed in discharging its obligation despite representation by the party aggrieved. However, the Respondent herein viz., the Commissioner does not have any authority to grant or examine any such claim of waiver.

3. The learned counsel for the petitioner submitted that the representation of the petitioner ought to have been considered by the Commissioner and in view of the failure to dispose the representation, mandamus would lie.

4. Heard both sides. Perused the material on record.

5. This Court finds merit in the submission of the learned counsel for the respondent inasmuch the petitioner is unable to point to any provision whereby the Respondent has authority to grant waiver much less a statutory right being vested with the petitioner to claim waiver of Entry Tax. It is well settled that a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge the statutory obligation. Therefore, in order that a mandamus be issued to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance.[1]

6. In view of the same, the writ petition stands dismissed. However, the petitioner is at liberty to seek redressal of its grievance before the appropriate forum/ authority. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2023

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp/shk

MOHAMMED SHAFFIQ, J.

spp/shk

1 Union of India v. C. Krishna Reddy, (2003) 12 SCC 627

To:
The Commissioner of Commercial Taxes,
Ezhilagam, 2nd Floor,
Chepauk,
Chennai 600 005.

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