



WEB COPY



WA No.854 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WA No.854 of 2023
and CMP No No.8322 of 2023

S.V.S.Chidambara Nadar Company,
D.No.76, Old No.29-30, V.O.C.Street,
Chidambaram - 608 001, Cuddalore District,
Rep. by its Managing Partner,
R.Rathakrishnan.

... Appellant

-VS-

1. The State of Tamil Nadu,
Rep. by its Agricultural Production
Commissioner and Secretary to Government,
Agriculture and Farmers Welfare Department,
Secretariat, Fort St. George, Chennai 600 009.
2. The District Collector,
Cuddalore District, Cuddalore 607 001.
3. The Revenue Divisional Officer,
Chidambaram - 608 001
Cuddalore District.
4. The Tahsildar,
Chidambaram Taluk,
Chidambaram 608 001,
Cuddalore District.



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5. The Superintendent,
Chidambaram Regulated Market,
No.33, Main Road, Vayalur 608 602,
Cuddalore District.

... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 24.03.2023 passed in W.P.No.8924 of 2023 on the file of this Court.

For the Appellant :: Mr.G.Sankaran,
Senior Counsel,
for Mr.S.Nedunchezhiyan

For the Respondents :: Mr.P.Muthukumar
State Government Pleader

* * * * *

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the conditional order dated 24.03.2023 passed in W.M.P.No.9064 of 2023 in W.P.No.8924 of 2023 by the learned Single Judge directing the appellant/petitioner to deposit 50% of the demand amount in respect of market fee.



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2. Mr.G.Sankaran, learned senior counsel appearing for the appellant, contended that when there is a judgment by a Division Bench of this Court in the case of **South Arcot Market Committee vs. South Arcot District Co-operative Spinning Mills Ltd.** reported in **1991-1-MLJ-202** wherein it has been held that fee cannot be levied under Section 18(1) of the Tamil Nadu Agricultural Produce Markets Act, 1959, and the Rules made thereunder when the sale was completed outside the State of Tamil Nadu, the conditional order passed by the learned Single Judge directing the appellant/petitioner to deposit 50% of the demand amount, being onerous, is unsustainable and therefore, the appellant/petitioner is aggrieved by the said order. The relevant paragraph of the said judgment are hereunder:-

"12. Having regard to the conclusion of ours that the sale was completed outside the State of Tamil Nadu, it should inevitably follow that the fee cannot be levied under [Section 18\(1\)](#) of the Act and the rules made thereunder. The dutiable event under the Act which only can be said to attract liability to pay the fee being not bringing the notified Product into the notified area but on account of such goods being "bought or sold in the notified market area..." which has been held to be conspicuously absent in the case on hand, the respondents are not liable to pay any fee in respect of such transactions concluded outside the State of Tamil Nadu and outside the



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notified area. The statute in question has enacted a rebuttable presumption only in respect of goods leaving out of the notified market areas and not those coming into the market area. The appellants have been conferred with the authority to levy the fee in question only on notified agricultural produce bought or sold in the notified market area and not those merely brought into such area. The event of buying or selling, unless is established to have occurred within the notified market area, there is no authority in the appellants to impose any levy of fee under [Section 18\(1\)](#) of the Act. That apart in the present case, the respondent specifically pleaded that having regard to the fact that the sales or purchases were effected in the State of Maharashtra, the relevant duty due under the similar enactment in force in Maharashtra has been paid to the Market Committee of the said area and given sufficient time the records and receipts may be produced by them. This position was never disputed in the counter affidavit and the same was not also in issue before the learned single Judge and consequently we find no error in the order of the learned single Judge allowing the writ petitions."

3. Heard the learned State Government Pleader appearing for the respondents and he would fairly submit that on the aforesaid ground alone, namely, directing the petitioner/appellant to deposit 50% of the demand amount, the matter may be remanded back to the learned Single Judge, in view of the ratio laid down by a Division Bench of this Court in the judgment cited supra.



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4. In view of the above submission and in the light of the ratio laid down by the Division Bench of this Court in the judgment referred supra, the conditional order passed by the learned Single Judge directing the appellant/petitioner to deposit 50% of the demand amount is alone set aside and the matter is remanded back to the learned Single Judge for fresh consideration.

The writ appeal is, accordingly, disposed of. There will be no order as to costs. Consequently, C.M.P.No.8322 of 2023 is closed.

(T.R., ACJ.) (K.B., J.)
18.04.2023

Index : Yes/No
Neutral Citation : Yes/No
sra

To

1. The Agricultural Production Commissioner and Secretary to Govt. of Tamil Nadu, Agriculture and Farmers Welfare Department, Secretariat, Fort St. George, Chennai 600 009.
2. The District Collector, Cuddalore District, Cuddalore 607 001.
3. The Revenue Divisional Officer, Chidambaram - 608 001 Cuddalore District.



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T.RAJA, ACJ,
and
K.KUMARESH BABU, J.

(sra)

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