IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15622 of 2023
and
W.M.P.No.15116 of 2023

C.Venkatesan ...Petitioner

-Vs-

1.The Principal Secretary/
Commissioner of Commercial Taxes,
Government of Tamilnadu,
Ezhilagam, Chepauk,
Chennai - 05.

2.The Joint Commissioner (ST) (Intelligence),
Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty,
Salem - 636 007. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records which culminated in the impugned communication bearing in Se.Mu.Na.Ka.No. 84/2022/A1 dated 27.04.2023 on the file of the 2nd respondent, and quash the same.

For Petitioner : Mr.P.Ganesan

For Respondents : Ms.Vasantha Mala

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. Through the impugned order dated 27.04.2023, the petitioner herein had been imposed with a punishment of stoppage of increment for a period of one year without cumulative effect. The petitioner herein holds the post of Deputy Commercial Tax Officer.

3. The Department of Commercial Taxes is covered by their own Special Rules, namely the Tamil Nadu Commercial Taxes Subordinate Service Rules. Under Rule 4 of the said Rules, the Commissioner of Commercial Taxes, Chennai, is the appointing authority for the Category-1 officers, which includes Deputy Commercial Tax Officer.

4. Obviously, it is the first respondent, who will also be the disciplinary authority for imposing any punishment. The entire disciplinary proceedings have been conducted by the second respondent herein, who is

not the authority at all and therefore, the proceedings and the consequential punishment would stand vitiated and hence illegal. On this ground, the order of punishment cannot be sustained.

5. In the light of the above findings, the impugned order dated 27.04.2023 is quashed. In case any service or monetary benefits, including the promotional benefits have been denied, owing to the pendency of the disciplinary proceedings against the petitioner, the respondents shall forthwith pass appropriate orders, extending the benefits that have been withheld, within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2023

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
hvk

M.S.RAMESH,J.

hvk

To

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Commissioner of Commercial Taxes,
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Ezhilagam, Chepauk,
Chennai - 05.

2.The Joint Commissioner (ST) (Intelligence),
Integrated Commercial Taxes Building,
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