IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.20418 of 2023
and
W.M.P.No.19793 of 2023

M/s. Aruna Theatre and Enterprises Pvt. Ltd
Represented by its Director
Mr.K.Shanmugasundram,
Having office at No.3, Pillar Road,
Ashok Nagar, Chennai - 600 083. ... Petitioner

Vs.

1. Secretary to Government,
Commercial Tax and
Registration Department,
Fort St.George, Chennai - 600 009.

2.The Special Commissioner,
Chepauk, Chennai 600 005.

3.The Deputy Commissioner (S.T.),
Zone VI, Chennai 600006.

4.The Assistant Commissioner,
Commercial Tax (C.T.),
K.K.Nagar Assessment Circle (Tax Circle),
Chennai - 600 083.

5.The Entertainment Tax Officer,
Saligramam Assessment Circle,
Chennai - 600 083. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the notice dated 30.06.2023 issued by the Assistant Commissioner (C.T.), K.K.Nagar Assessment Circle, in E.T.No:1905/2009/25.10.2010 and quash the same consequently direct the respondents to drop the entire proceedings against the petitioner-company for once and for all and grant as such other suitable orders.

For Petitioner : Mr.C.Umashankar

For Respondents : Ms.Amritha Poonkodi Dinakaran
Government Advocate

ORDER

Ms.Amritha Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondents.

2. Heard both sides at length.

3. This is the third round of Writ petition filed by the petitioner. Earlier, the petitioner had suffered an order in the hands of the 5th respondent herein in Na.Ka.No.1905/2009/A1, dated 18.12.2010. Same was challenged

before this court in W.P.No.5919 of 2011 and by an order dated 05.02.2020, the following order was passed,

> *".... 9. The 4th respondent shall pass appropriate order in accordance with law after hearing the petitioner within a period of 90 days from the date of receipt of a copy of this order. In case, the demands proposed are dropped, the amount paid by the petitioner shall be refunded to the petitioner."*

4. Thereafter, the petitioner was issued with a property notice which culminated in an order dated 17.09.2021 bearing reference in R.C.387/2020/B1 by the 4th respondent herein.

5. The petitioner filed second round Writ petition in W.P.No.21659 of 2021 challenging the same, stating that the order was not reasoned. By an order dated 07.03.2023, the said Writ petition was disposed granting liberty to the petitioner to file a statutory appeal before the appellate authority in terms of Rule 49 of the Tamil Nadu Entertainment Tax Rules, 1939, with in a period of three weeks from date of receipt of a copy of that order. The petitioner has also filed a statutory appeal on 03.04.2023.

6. Learned counsel for the petitioner would submit that the appeal has now been numbered as A.P.No.01 of 2023 and the hearing is also fixed on 17.07.2023 and in this circumstance, the petitioner submits that the impugned

recovery notice, seeking to demand the arrears of tax, is premature and liable to be interferred with.

7. Learned Government Advocate for the respondent would submit that petitioner has been delaying the proceedings and there is a huge arrear of Rs.3,27,52,267/- for the periods 2006 to 2009 towards entertainment Tax. Hence, submits that the petitioner should be put to terms.

8. Considered the arguments advanced by the learned counsel for the petitioner and the respondent.

9. The respondents are directed to maintain status quo pending disposal of petitioner's appeal in A.P.No.01 of 2023 which is stated to have been filed as against the order passed by the 4th respondent herein on 17.09.2021 in R.C.387/2020/B1 and likely to be heard on 17.07.2023. All further necessary proceeding shall subject to the final outcome of the order to be passed in A.P.No.01 of 2023. However, it is made clear that if the petitioner fails to secure any interim order staying the operations of the aforesaid order on 17.07.2023, the respondents are at liberty to proceed against the petitioner in accordance with law.

10. Accordingly, this Writ Petition stands disposed of with the consent of the learned counsel for the petitioner, at the admission stage itself, after

hearing both the Counsel at length. No costs. Connected miscellaneous petition is closed.

07.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

mpl

To

1. Secretary to Government,
   Commercial Tax and
   Registration Department,
   Fort St.George, Chennai - 600 009.

2.The Special Commissioner,
   Chepauk, Chennai 600 005.

3.The Deputy Commissioner (S.T.),
   Zone VI, Chennai 600006.

4.The Assistant Commissioner,
   Commercial Tax (C.T.),
   K.K.Nagar Assessment Circle (Tax Circle),
   Chennai - 600 083.

5.The Entertainment Tax Officer,
   Saligramam Assessment Circle,
   Chennai - 600 083.

C.SARAVANAN, J.

mpl

W.P.No.20418 of 2023
and
W.M.P.No.19793 of 2023

07.07.2023