IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.21659 of 2021
and W.M.P.No.22835 of 2021

M/s. Aruna Theatre and Enterprises Pvt Ltd.,
Rep. By its Director,
K.Shanmugasundaram,
having office at No.3, Pillar Road,
Ashok Nagar, Chennai – 600 083. .. Petitioner

vs

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

2.The Special Commissioner,
Chepauk, Chenna – 600 005.

3.The Assistant Commissioner,
Commercial Tax,
K.K.Nagar Assessment Circle (Tax Circle),
Chennai – 600 083.

4.The Entertainment Tax Officer,
Saligramam Assessment Circle,
Chennai – 600 083. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for entire records pertaining to the order dated 17.09.2021 passed by the 3rd respondent herein in Rc.387/2020/B1 and quash the same consequently direct the respondents to pass an order to exempt the petitioner company from paying entertainment tax as mentioned in the impugned order dated 17.09.2021.

For Petitioner : Mr.C.Umashankar

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The petitioner is on the second round of litigation, having approached this Court earlier in W.P.No.5919 of 2011 challenging pre-assessment notices passed by the Entertainment Officer in terms of the provisions of the Tamil Nadu Entertainment Tax Act, 1939 (in short 'the Act'). That writ petition was disposed by order dated 05.02.2020 directing the petitioner to file a reply within a period of 60 days from date of receipt of a copy of that order.

2. The respondents were also granted liberty to issue notice for corrigendum within a stipulated time period. However, it was made clear that irrespective of whether corrigendum was issued or not, reply should be filed within a period 60 days from the date of receipt of that order.

3. Despite this Court having fixed a time for reply, being 60 days, the petitioner has filed its reply only on 06.09.2021 having preferred to await the notice to be issued by R3. That apart, the main stance of the petitioner appears to be that several

documents have been filed before the Assessing Officer in relation to the exemption which have not been taken into consideration. Those documents are best left for appreciation of the authorities.

4. Quite apart from the fact that the documents have not been placed before the Court and rightly so, as appreciation of evidence would involve verification of facts that cannot be done in a writ petition, there is no legal infirmity per se that is made out by the petitioner.

5. For the aforesaid reasons, I am of the view that the present challenge under Article 226 of the Constitution of India is not liable to be entertained and this writ petition is hence dismissed.

6. Liberty is however sought and granted to the petitioner to approach the appellate authority in terms of Rule 49 of the Tamil Nadu Entertainment Tax Rules by way of appeal to the First Appellate Authority. Appeal if filed within a period of three weeks from date of receipt of this order, shall be entertained without reference to limitation but subject to all other statutory conditions. No costs. Consequently, connected miscellaneous petition is

closed.

7. Registry to return original impugned order to enable filing of appeal.

07.03.2023

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

ssm

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