IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	**27.08.2024**
PRONOUNCED ON :	**15.10.2024**

CORAM:

THE HON'BLE MRS. JUSTICE J.NISHA BANU

AND

THE HON'BLE MRS. JUSTICE R.KALAIMATHI

W.A.Nos.1142 & 1363 of 2023

& C.M.P.Nos.11499, 13390 of 2023

W.A.No.1142 of 2023:

1. The Assistant Commissioner,
   Commercial Taxes, Vellore District,
   4, Bharathiar Road, Vellore.

2. The Commercial Tax Officer,
   Vellore (Rural), 4, Bharathiar Road,
   Vellore.

3. The Joint Commissioner,
   The Commercial Tax, Vellore District,
   4, Bharathiar Road, Vellore ... Appellants/
   Respondents 1, 2 & 4

Vs.

1. Om Sakthi Narayani Siddar Peedam,
   Charitable Trust Rep. By
   Trustee K.Soundararajan, ... R-1/ Petitioner

2.The Liquidator,
   Vellore District Co-operative Spinning Mills,
   Vellore. ... R-2/ 3rd respondent

W.A.No.1363 of 2023:

1. Mr.Sivakumar,
   Deputy Commissioner,
   (Commercial Taxes), Vellore,
   Vellore District.
2. The Assistant Commissioner(CT),
   Territorial, Vellore District,
   4, Bharathiar Road, Vellore
3. The Commercial Tax Officer,
   Vellore (Rural), 4, Bharathiar Road,
   Vellore. ... Appellants/ respondents

Vs.

1. Om Sakthi Narayani Siddar Peedam,
   Charitable Trust Rep. By
   Trustee K.Soundararajan ... 1st Respondent/ Petitioner
2. The Administrator,
   North Arcot District
   Co-operative Spinning Mills, Ariyur. ... R-2 / R-4

3. The Director of Handlooms and Textiles,
   Kuralagam, II Floor, Chennai 600 108 ... R-3/ R-5

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent against the common order passed in W.P.Nos.4958 & 24137 of 2008 dated 23.03.2021.

In both cases:

For Appellants	: Mr.Haja Nazirudeen, AAG-I Assisted by Mr.G.Nanmaran, Spl. G.P.(Tax)
For Respondents in W.A.No.1363/23 & R1 in W.A.No.1142/23	: Mr.Muralikumaran, Senior Counsel For Mc.Gan Law firm
For R-2 in W.A.No.1142/23	: Mrs.A.Srijayanthi

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COMMON JUDGMENT

(Judgment of the Court was made by **J.NISHA BANU, J.**)

Since the issue involved in both the writ appeals are one and the same, they are disposed of by this common judgment.

2. The Writ Appeals are filed as against the common order dated

23.03.2021 passed in Writ Petition Nos.4958/2008 and 24137/2008. The said Writ Petitions were filed by the 1st Respondent herein, seeking to declare the 1st respondent/writ petitioner as the highest bidder in the auction conducted by the 3rd Respondent in WP. No. 4958/2008, the 3rd Appellant in WA. No. 1363/2023 and to quash the proceedings of the 1st Respondent in WP. No. 24137/2008 dated 14.08.2008, the 1st Appellant in WA. No. 1142/2023.

3. The 1st Respondent/ the Writ Petitioner was declared as the highest bidder in the auction conducted by the Commercial Taxes Department, dated 06.12.2006 for the recovery of its dues for the properties belonging to Vellore District Cooperative Spinning Mills and the Writ Petitioner also deposited, as required Rs.1,35,00,000/- on the said date.

4. Even though, the Writ Petitions were dismissed, the Writ Appeals were filed by the Commercial Taxes Department, being aggrieved by the refund Ordered by the Learned Single Judge of the amount deposited by the Writ Petitioner along with interest. The Learned Additional Advocate General, Mr.Haja Nazirudeen vehemently contended that the bidder is estopped from claiming any legal right of interest.

5. On the other hand the Learned Senior Counsel, Mr.N.Muralikumaran, appearing for the Writ Petitioner pointed out that the Writ Petitions were dismissed on the ground that the land which was auctioned by the Commercial Taxes Department,claiming to be the land of the Vellore Cooperative Spinning Mills, was for the 1st time, at the time of final hearing of the Writ Petitions was contended that the land itself does not belong to the Vellore Cooperative Spinning Mills, but to the government and therefore, there was no power for the Commercial Taxes Department to auction the land for the dues payable to it by the Vellore Cooperative Spinning Mills. Hence, the fault being on the part of the Commercial Taxes Department, the Learned Judge has rightly ordered refund with interest. The Learned Senior Counsel also pointed out that the said stand was taken for the first time after a period of almost 15 years, when the Writ Petitions were finally heard by the Learned Judge and also the Writ Appeals were filed without disclosing the fact that the impugned order which is challenged in the present Writ Appeals, where the subject matter of challenge and order in W.A.Nos.1888 &1889 /2021 dated 02.08.2021 of the Coordinate Bench of this Court, wherein all the appellants herein were Respondents.

6. We find no merit in the Writ Appeals for the reason that the amount deposited by the Writ Petitioner in pursuant to the auction conducted by the Commercial Taxes Department was not refunded and till date, even after the Order of the Single Judge was confirmed by the Coordinate Bench of This Court by the Order passed in WA. Nos. 1888 & 1889 /2021 as early as 02.08.2021 by holding :-

> "*6. ... The learned Single Bench was right, in refusing to grant the relief sought for and it is equally right in directing the amount paid by the appellant to be refunded and also with regard to the rate of interest. Therefore, we find no ground to interfere with the order passed by the learned Single Bench. This finding will ultimately lead to the dismissal of the Writ Appeals. As a consequence, the appellant is entitled to refund of the amount along with interest at Bank rates which are fixed from time to time. The respondent State would submit that, even in the year 2008, when the amount was refunded to the appellant, the same was refused to be accepted. Be that as it may, the fact remains that the amount is yet to be refunded together with interest thereon, as ordered by the learned Single Bench.*

7. We are also not convinced with the arguments of the Additional Advocate General that the Writ Petitioner was refusing to receive the refund, as we find the Commercial Taxes Department did not refund the amount with interest but attempted to refund only the deposited amount of Rs.1,35,00,000/-.

8. The issue having been attained finality by way of order dated 02.08.2021 passed in WA.Nos.1888 & 1889 of 2021 agitating the same by filing separate Writ Appeals after almost a period of 3 years is impermissible in law as the Principle of Finality of Litigation is based on the Principle of Public Policy as held by the Apex Court in the case of ***K.K. Modi v. K.N. Modi [(1998) 5 SCC 573]***,which also stands approved by the Hon'ble Supreme Court in the case of ***M. Nagabhusana, [(2011) 3 SCC 408].***

9. Accordingly, the Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions stand closed.

(J.N.B,J.) (R.K.M., J.)

15.10.2024

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Internet : Yes/ No Index: Yes / No

Speaking Order / Non-Speaking order

To:

1. Om Sakthi Narayani Siddar Peedam,
   Charitable Trust Rep. By
   Trustee K.Soundararajan,

2.The Liquidator,
Vellore District Co-operative Spinning Mills,
Vellore.

3. The Administrator,
   North Arcot District
   Co-operative Spinning Mills, Ariyur.

4. The Director of Handlooms and Textiles,
   Kuralagam, II Floor, Chennai 600 108

J. NISHA BANU, J.,

and

R.KALAIMATHI, J.,

sts

Common Judgement made in

W.A.Nos.1142 & 1363 of 2023

Dated:

15.10.2024