BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.19939 of 2024
and
W.M.P.(MD)Nos.16920 and 16921 of 2024

Muthumari Manamagil Mandram,
Represented by its Secretary,
Kasirajan ... Petitioner

Vs.

The State Tax Officer,
Madurai Rural (West Circle),
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned Assessment Order passed by the respondent in Asst.No.33625043896/2015-16, dated 28.03.2024, and quash the same.

For Petitioner : Mr.T.Bashyam

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

O R D E R

The present Writ Petition is filed challenging the impugned Assessment Order passed by the respondent in Asst.No.33625043896/2015-16, dated 28.03.2024, for the assessment year 2015-2016.

2. It is submitted by the learned counsel for the petitioner that the impugned order is challenged on the premise that it is passed contrary to the law laid down by the decision of the Supreme Court in the case of ***State of West Bengal Vs Calcutta Club Ltd.,*** reported in ***(2019) 19 SCC 107***, wherein the Hon'ble Supreme Court while dealing with the scope of 46th amendment held that the doctrine of mutuality continues to be applicable to incorporated and unincorporated members of club even after 46th amendment to the Constitution of India. Relevant portion of the judgment is extracted hereunder:

> *"(1) The doctrine of mutuality continues to be applicable to incorporated and unincorporated members of clubs after the 46th Amendment adding Article 366(29-A) to the Constitution of India.*
>
> *(2) Young Men's Indian Association (supra) and other judgments which applied this doctrine continue to hold the field even after the 46th Amendment.*
>
> *(3) Sub-clause (f) of Article 366 (29-A) has no application to members' club."*

3. It is further submitted by the learned counsel for the petitioner that a detailed reply was filed in response to the notice, wherein it was stated that doctrine of mutuality would apply between the subject club and the members. However, the same has not been dealt with in the impugned order of assessment.

4. At this juncture, the learned Additional Government Pleader for the respondent would submit that the petitioner did not produce the details sought by the respondent in the impugned order, to which the learned counsel for the petitioner submitted that the same were already produced and they are ready and willing to produce once again, within a period of two weeks from the date of receipt of a copy of this order. The learned Additional Government Pleader did not seriously object to the same.

5. In view thereof, the matters are remitted back and the petitioner shall produce the documents as sought for by the respondent, within a period of two weeks from the date of receipt of a copy of this order and the assessing authority shall redo the assessment and pass orders, by applying the principles laid down in the judgment of the Supreme Court in the case of Calcutta Club stated supra, after providing the petitioner an opportunity of personal hearing, within a period of two weeks therefrom.

6. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

The State Tax Officer,
Madurai Rural (West Circle),
Madurai.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.19939 of 2024

21.08.2024