BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.20558 of 2024

Thirupparankundram Malligai
Manamahil Mandram,
Represented by its President,
C.Palanichamy. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Thirumangalam Assessment Circle,
Commercial Taxes Department,
Thirumangalam,
Madurai District.

2.The Branch Manager,
South Indian Bank,
St.Josephs SHP Complex,
A.A.Road, Gnanaolivupuram,
Madurai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to release the bank account of the petitioner club in the second respondent bank vide Account No.047503000000386 on the basis of the petitioner's representation, dated 14.05.2024, and pass such further or other orders as this Court.

For Petitioner	:	Mr.T.Bashyam
For R-1	:	Mr.R.Suresh Kumar Additional Government Pleader

ORDER

The present writ petition has been filed challenging the demand notice, dated 05.02.2024, pursuant to the orders of assessment, dated 20.02.2017 for the assessment years 2012-2013 to 2015-2016 resulting in demand of Rs.69,39,912/- including penalty.

2. It is submitted that the petitioner has not been served with the orders of assessment and he was unaware of any notices or orders of assessment having been made. In any view, it is submitted that the petitioner is a member of the club and that the doctrine of mutuality would apply with regard to the transaction between the club and its members. It was thus submitted that any levy of tax is impermissible and sought to rely upon the judgment of the Hon'ble Supreme Court in ***State of West Bengal and Others Vs. Calcutta Club Limited*** in reported in ***2019 (19) SCC 107***. It was thus submitted that the entire levy itself is bad and contrary to Article 366(29A) read with 265 of the Constitution of India.

3. To the contrary, it was submitted by the learned Additional Government Pleader for the first respondent that the present writ petition is only for a writ of Mandamus to consider their representation, dated 14.05.2024, whereby, the petitioner's bank account has been attached. It was submitted that in the absence of a challenge to the impugned orders of assessment, the present prayer itself may be difficult to be maintained.

4. In any view, it was submitted that the petitioner's representation, dated 14.05.2024 would be considered and orders would be passed, within a period of one week from the date of receipt of a copy of this order.

5. In view of the same and taking into consideration the facts and circumstances of the case and the limited relief sought for in this Writ Petition, there shall be a direction to the first respondent herein to consider the petitioner's representation dated 14.05.2024, on its own merits and pass appropriate orders in accordance with law, after affording reasonable opportunity of hearing to the petitioner and other interested persons/stake holders, within a period of one week from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any views with regard to the merits of the representation and it is open to the first respondent to consider the representation on its own merits and in accordance with law.

6. The writ petition stands disposed of. There shall be no order as to costs.

02.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To
1.The Assistant Commissioner (ST),
Thirumangalam Assessment Circle,
Commercial Taxes Department,
Thirumangalam, Madurai District.

2.The Branch Manager,
South Indian Bank,
St.Josephs SHP Complex,
A.A.Road, Gnanaolivupuram,
Madurai.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.20558 of 2024

02.09.2024