BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20908 of 2024
and
W.M.P(MD)No.17707 of 2024

Sridharan ... Petitioner

Vs.

The Commissioner of Commercial Taxes,
Office of Commissioner of Commercial Taxes,
Chepauk, Chennai – 600 005. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records relating to the Impugned show cause notice in Memo Ref.No.E1/12122/2016, dated 27.06.2024, issued by the respondent and quash the same.

For Petitioner : Mr.T.Antony Arulraj

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

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ORDER

The instant writ petition has been filed by a Deputy Commercial Tax Officer, who is under suspension, challenging the show cause notice issued by the respondent herein on 27.06.2024 to the effect that why the petitioner should not be dismissed from service.

2.Admittedly, the petitioner has been convicted by a criminal Court under the Prevention of Corruption Act on 18.12.2023 and the petitioner has filed an appeal before this Court in Crl.A.(MD)No.39 of 2024 and this Court has granted suspension of sentence.

3.According to the learned Counsel appearing for the writ petitioner, since the sentence has been suspended by this Court, the second show cause notice ought not to have been issued. He further contended that the Commissioner of Commercial Tax is not a competent authority to issue the show cause notice.

4.Per contra the learned Counsel appearing for the respondents herein has relied upon the Tamil Nadu Commercial Taxes Subordinate Service Rules and contended that the Commissioner of the Commercial Tax is the appointing authority so far as the Deputy Commercial Tax Officer is concerned and contended that he is competent to issue the show cause notice.

5.According to the learned Counsel appearing for the writ petitioner, the Deputy Commercial Tax Officer post has already been re-designated as Commercial Tax Officer and therefore, the Commissioner of Commercial Tax is not the competent authority.

6.This Court is not inclined to accept the said contention of the writ petitioner, in view of the fact that is no consequential amendment is carried out in the Tamil Nadu Commercial Taxes Subordinate Service rules.

7.Considering the fact that the petitioner has been convicted under the Prevention of Corruption Act, the show cause notice issued by the authority cannot be questioned.

8.In view of the above submissions, this writ petition stands dismissed with liberty to the petitioner to raise all these points by way of filing an explanation to the impugned show cause notice in the writ petition and the respondent is directed to consider the said objections and pass orders on merits in accordance with law. The petitioner shall send his explanation on or before 18.09.2024.

9.Accordingly this writ petition dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

03.09.2024

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

RJR

To

The Commissioner of Commercial Taxes,
Office of Commissioner of Commercial Taxes,
Chepauk, Chennai – 600 005.

R.VIJAYAKUMAR, J.

RJR

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