

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30205 of 2016

Sri Kumaran Mills,
Rep. by its Partner, G.Murugasamy,
S.F.No.180, M.T.P.Road,
Jeeva Nagar, Otterpalayam (Post),
Annur - 641 653.
Coimbatore District. Petitioner

Versus

1.The Commercial Tax Officer (Enf),
BTPS, Coimbatore.
2.The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the first and second respondents to arrange to return back the collection of three cheques bearing Nos.184638, 184639 and 184640 dated 29.07.2016 issued by State Bank of Travancore, Annur Branch, for a value of Rs.12,32,403-00 as the cheques being collected contrary to the principle laid down by this Honourable Court in the judgment reported in (1992) 87 STC 513 (Hotel Blue Nile vs. State of Tamil Nadu and others) .

For Petitioner : Mr. R.Senniappan

For Respondents : Mr. S.Kanmani Annamalai,
Additional Government Pleader

O R D E R

Heard Mr. R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice on behalf of the respondent. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal at the admission stage itself.

2. In this writ petition, the petitioner seeks for a direction against respondents 1 and 2, of whom, the first respondent is the Enforcement Wing Official, to return the three cheques, which were collected from the petitioner, during the course of inspection of the business premises of the petitioner.

3. As early as in the year 1992, this court, in the case of Hotel Blue Nile vs. State of Tamil Nadu (Mad.), reported in [1992] 87 STC 513, held that the collection of cheques by the Enforcement Wing Officials, is without jurisdiction. This view has been consistently followed in several decisions of this court. Thus, the action of the first respondent, in collecting the cheques from the petitioner is without jurisdiction.

4. In the light of the above legal position, there will be a direction to the respondents to return three cheques collected from the petitioner and with a liberty to the second respondent to proceed in accordance with law, pursuant to the inspection which was conducted in the business premises of the petitioner.

5. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

PVS / SRK

To

1.The Commercial Tax Officer (Enf),
BTPS, Coimbatore.

2.The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi.

+lcc to Mr.R.Senniappan, Advocate, S.R.No.49651
+lcc to the Special Government Pleader(T), S.R.No.49499

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CTK(CO)
CA(02/09/2016)