

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6449 of 2015

G.Sundararajan .. Petitioner

vs

1. The Secretary
Department of Local Administration
Union Territory of Puducherry
Puducherry.
2. The Commissioner
Puducherry Municipality
Puducherry.
3. The Revenue Officer-I
Puducherry Municipality
Puducherry.
4. Manohar
5. R.Perumal
6. Sekar
7. Gopalakrishnan
8. Prem Raja
9. Govinda Reddiar .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus, calling for the records comprised in proceedings of the respondent 2 bearing No.303/Pu.Na./Va.pi.1/A4/2015 dated 11.02.2015 and quash the same insofar as it pertains to the Tamil Film “I” and consequently directing the respondents 1 to 3 herein to grant exemption from payment of Entertainment Tax for the Tamil film “I” starring Vikram, Amy Jackson, Music by A.R.Rahman, Directed by Mr.Shankar towards the exhibition of the same within the Union Territory of Puducherry.

For the Petitioner : Mr.T.Ravichandran

For the Respondents : Mr.B.Ramaswamy
Additional Govertment Pleader
(Puducherry)
for respondent 1

Mr.T.P.Manoharan
Senior Counsel
for Mr.T.M.Naveen
for respondents 2 and 3

Mr.D.Ravi Chander
for respondent 5

No Appearance
for respondents 4, 6 to 9

ORDER

The order of rejection rejecting the claim of the writ petitioner for grant of tax exemption for their movie, namely, “ஐ”, is under challenge in the present writ petition.

2. The petitioner is the proprietor of Sri Vijalakshmi Films, carrying out business in the Districts of Cuddalore, Vullipuram and in the Union Territory of Puducherry. The petitioner produced the movie called “ஐ” and submitted application for grant of exemption for payment of entertainment tax. The application was filed on the ground that the movie is named in Tamil language and therefore, entitled to seek entertainment tax exemption based on the Government orders passed. The application was considered by the competent authorities and the request for exemption from payment of entertainment tax was rejected on the ground that the name of the film “ஐ” cannot be construed as Tamil language within the parameters fixed in the Government Order and therefore, the petitioner is not entitled to get exemption from payment of entertainment tax.

3. The learned counsel for the petitioner mainly contended that the word “ஐ” in Tamil can be considered as exclamation and it conveys a definite meaning and thus, the decision taken by the authorities are erroneous and thus, the order impugned is to be set aside. It is further contended that in wall posters, advertisements, movie, etc., the petitioner used the Tamil word “ஐ” and therefore, they are entitled for exemption from payment of entertainment tax, as per the Government Orders issued.

4. The learned counsel for the fifth respondent made a submission that the writ petition is not maintainable in view of the fact that, exemption from payment of entertainment tax was granted to the theatre owners and not to the distributors. Therefore, the petitioner is not entitled to get exemption, since the petitioner is a distributor admittedly. Thus, the writ petition is to be dismissed.

5. The learned Senior Counsel appearing for the respondents 2 and 3 made a submission that the Government issued orders granting exemption to the cine films with titles in Tamil and Telugu by payment of entertainment tax in G.O.Ms.No.30/LAS/ Local Administration Secretariat dated 19.06.2007. Pursuant to the decision taken by the Government of Puducherry, an expert committee was constituted to ensure as to whether the title is really in Tamil / Telugu or otherwise. The Committee was constituted vide G.O.Ms.50/LAS/2007 Local Administration Secretariat dated 10.09.2007.

6. The Expert Committee gone into the merits and demerits of the claim set out by the petitioner along with other applications and had taken a decision that the petitioner's movie, viz., “*ఐ*”, cannot be considered as a Tamil title and therefore, not entitled to seek exemption from payment of entertainment tax. The recommendations of the Expert Committee was accepted by the Government and accordingly, the application submitted by the petitioner was rejected.

7. The word “ஐ” is a letter in Tamil language i.e., “உயிர் எழுத்து”. No doubt, the letter “ஐ” may convey certain meaning, since Tamil being an Ancient language. Even in 'Thirukkural', the letter “ஐ” has been used by the poet “Tiruvalluvar” to convey some meaning. However, in the context of the film, whether the word “ஐ” may be construed as Tamil title or not is to be decided on merits and with reference to the contents in the movie.

8. The Expert Committee constituted had gone into the merits of the case of the petitioner, so as to find out, whether the letter “ஐ” has been used in order to seek exemption from Entertainment tax or it conveys Tamil title within the meaning of the Government policy for grant of exemption from payment of Entertainment tax. The Expert Committee gone into the merits elaborately and considered the contents in the movie and finally formed an opinion that the letter “ஐ” named for the petitioner's film cannot be considered as Tamil title for extending the benefit of exemption from payment of Entertainment tax.

9. The opinion of the Expert body became final. High Court in exercise of the powers of judicial review under Article 226 of the Constitution of India, ordinarily cannot interfere with the opinion of the Expert Body. If the opinion of the Expert Committee is tainted with the allegation of *mala fides* or directly in violation of the Statutory provisions or the scheme or the policy, then alone, the High Court can interfere with such opinion, but not otherwise.

10. Exemption from payment of Entertainment tax given to a film is a concession granted by the Government to encourage the film makers to use Tamil title for their films. Concession can never be claimed as a matter of right. Concession is to be extended, if the authorities are satisfied and the conditions stipulated in the policy are complied with. The payment of Entertainment tax is the rule. Granting exemption is an exception. Thus, such exceptions and the power of discretion to grant exemption are to be exercised cautiously and mere using the Tamil letter in a film cannot be a ground to grant exemption from payment of Entertainment tax by the High

Court in exercise of the powers under Article 226 of the Constitution of India.

11. In the present case, the Expert Committee has given reasons and the said reasons were accepted by the Government for rejecting the case of the petitioner to grant exemption from payment of Entertainment tax. The Authorities formed an opinion that the letter “ஐ” was used as a title, only to get exemption and on merits, the authorities rejected the claim of the petitioner.

11. The Government issued orders in G.O.Ms.No.51/LAS/2007 Local Administration Secretariat, dated 14.09.2007, granting benefit of exemption from payment of Entertainment tax to the cine films with the title in Tamil and Telugu languages. The benefit was extended only to the cine theatre owners with effect from 16.06.2007. Admittedly, the petitioner is a distributor of the film. Thus, the petitioner has no *locus standi* to submit an application or to seek exemption from payment of Entertainment tax based on the Government order (cited *supra*). The Government order was issued

for the benefit of the theatre owners only. Thus, the writ petition is not entertainable.

12. This being the factum, this Court do not find any infirmity in respect of the decision taken by the competent authority and accordingly, the writ petition stands dismissed. There will be no order as to costs.

08.03.2023

Index : Yes/No
Neutral Order: Yes/No
drm/jeni

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S.M.SUBRAMANIAM,J.

(drm)

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