

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.Nos. 34347, 24076 & 34348 of 2016

and

W.M.P. Nos. 20601, 29609 & 29610 of 2016

W.P. No. 34347 of 2016:-

P.S.Shanmuga Sundaram

...Petitioner

Vs

1.The Director  
Treasuries and Accounts Department  
II Floor, Panagal Building  
Saidapet, Chennai – 600 015.

2.The General Manager  
State Bank of India  
16, Local Head Office  
College Road, Nungambakkam  
Chennai – 600 006.

3.The Manager  
State Bank of India-Treasury Branch  
Murasoli Building  
374, Anna Salai  
Thousand Lights  
Chennai – 600 006.

4. The Principal Secretary to  
Government, Finance Department  
Fort St. George, Chennai – 600 009.  
(R4 *Suo motu* impleaded vide  
order dated 29.09.2021 made in  
W.P. No. 34347 of 2016)

... Respondents

**PRAYER** : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Second and Third Respondents to waive off fully the cash handling charges collected from the stamp vendors in pursuant to the official letter RC. No. 12849/2016/L2 dated 28.03.2016 issued by the First Respondent and consequently forbear the Third Respondent from collecting any cash handling charges forthwith from the Petitioner for purchase of stamp papers.

For Petitioner : Mr. M.R.Uma Vijayan

For Respondents : Mr. C.Kathiravan  
Government Advocate (For R1, R4)

Mr. P.Ilayaraj Kumar (For R2, R3)  
For M/s. Ramalingam & Associates

W.P. No. 34348 of 2016:-

K.A.Vijayakumar ...Petitioner

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Treasuries and Accounts Department  
II Floor, Panagal Building  
Saidapet, Chennai – 600 015.

2.The General Manager  
State Bank of India  
16, Local Head Office  
College Road, Nungambakkam  
Chennai – 600 006.

3.The Manager  
State Bank of India, Chennai Main Branch  
Shaw Wallace Building, I Floor  
New No.336, Old No.166  
Thambu Chetty Street  
Chennai – 600 006.

.... Respondents

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For Petitioner : Mr. M.R.Uma Vijayan

For Respondents : Mr. C.Kathiravan  
Government Advocate (For R1)

Mr. P.Ilayaraj Kumar (For R2, R3)  
For M/s. Ramalingam & Associates

W.P. No. 24076 of 2016:-

C.Thirumohan

...Petitioner

Vs

1.The Director

Treasuries and Accounts Department  
II Floor, Panagal Building  
Saidapet, Chennai – 600 015.

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For Respondents : Mr. C.Kathiravan  
Government Advocate (For R1)

Mr. P.Ilayaraj Kumar (For R2, R3)  
For M/s. Ramalingam & Associates

**COMMON ORDER**

The writs on hand have been instituted for direction to direct the Second and Third Respondents to waive off fully cash handling charges collected from the stamp vendors, pursuant to the Official Letter in R.C. No.12849/2016/L2 dated 28.03.2016 issued by the First Respondent and consequently, forbear the Third Respondent from collecting any cash handling charges forthwith from the Petitioners for purchase of stamp papers.

2. The Petitioners are in the business of vending stamp papers since 1988 and holding valid licenses. The grievance of the Writ Petitioners is that since January, 2015, the Second and Third Respondents are illegally demanding the Petitioners to deposit Rs.15/- for every bundle of currency, i.e., bundle containing 100 notes by remitting in the name of account as

“Commission Account”, for which no receipts or payment challans are issued. The First Respondent viz., the Director, Treasuries and Accounts Department, Chennai vide letter dated 28.03.2016 addressed the Second Respondent viz., the General Manager, State Bank of India, Local Head Office, College Road, Nungambakkam, Chennai to waive off the cash handling charges collected from the stamp vendors, as the Government is paying separately to the banks. The Petitioners are forced to pay Rs. 150 /- to Rs. 200/- as cash handling charges, which have severe financial impact on the meager commission earned every day.

3. Learned Counsel appearing on behalf of the Petitioners/ Stamp Vendors submits that the Second and Third Respondents /State Bank of India, by misinterpreting the Master Circular issued by the Reserve Bank of India, collecting cash handling charges from the Petitioners, who all are depositing money through Treasury Challans into the Government account.

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4. It is contended that the stamp vendors are depositing money through Treasury Challans in the Government account, more specifically, on behalf of the Government. Thus, the transaction cannot be treated as 'private

transaction' and the money is being deposited in Government accounts through Treasury Challans for the purpose of purchase of stamps.

5. This being the nature of transaction, there is no valid reason whatsoever for the purpose of collecting cash handing charges from the stamp vendors, as they are unconnected with the Government accounts and, the deposit is made on behalf of the Government. This being the illegality noticed by the Petitioners, due to the act of the State Bank of India, the Petitioners are constrained to move the present Writ Petitions.

6. Learned Counsel appearing on behalf of the Second and Third Respondents /State Bank of India objected the contentions by stating that cash handling charges are collected based on the Master Circular issued by the Reserve Bank of India. Such cash handling charges are being collected for every such transaction and therefore, there is no irregularity as such in respect of such collections made pursuant to the direction of the Reserve Bank of India.

7. Learned Counsel appearing on behalf of the Second and Third Respondents contended that the Master Circulars dated 01.07.2014 and 01.04.2021 permit the State Bank of India to collect cash handling charges and whenever the cash is deposited, the authorities of the State Bank of India are empowered to collect those cash handling charges.

8. Learned counsel appearing for the Second and Third Respondents clarified by saying that the Master Circulars dated 01.07.2014 and 01.04.2021 are permitting to collect agency commission and cash handling charges. Thus, there is no infirmity in respect of such collection of cash handling charges by the Second and Third Respondents /State Bank of India.

9. It is pertinent to note that the complaint submitted by the Petitioners to the Director /Commissioner of Treasuries and Accounts was considered by the Commissioner, who in turn sent a letter dated 28.03.2016 to the General Manager, State Bank of India, Local Head Office, Nungambakkam, Chennai, which reads as follows:-

*"As the stamp vendors are remitting cash to purchase*



*Stamps from Treasuries by remitting money into State Government Accounts and not for individual current /savings Bank Accounts, it is requested that this cash handling charges should be waived off for this remittance. Further, it is pointed out that, for every Government transaction charges are being paid separately to the banks by the Government and therefore, the cash handling charges collected from stamp vendors may fully be waived off. The Stamp Vendors may also be exempted from the cash handling charges."*

In respect of the letter sent by the Director /Commissioner of Treasuries and Accounts, Government of Tamil Nadu, Learned Counsel appearing on behalf of the Second and Third Respondents /State Bank of India contended that those circulars are not binding on the State Bank of India. The Director /Commissioner of Treasuries and Accounts has no authority to prevent the State Bank of India from collecting any cash handling charges and therefore, the said clarificatory letter cannot be relied upon for the purpose of considering the request of the Petitioners for non-collection of cash handling charges.

10. Learned Counsel appearing on behalf of the Second and Third Respondents /State Bank of India reiterated that they are bound by the Master Circulars issued by the Reserve Bank of India and they are not bound by the orders passed by the Government of Tamil Nadu.

11. In view of the stand taken by the State Bank of India, this Court *suo motu* impleaded the Principal Secretary to Government, Finance Department, Secretariat to clarify the position with reference to the stand taken by the State Bank of India, as the Government of Tamil Nadu is the account holder in the State Bank of India.

12. Pursuant to the order to implead the Principal Secretary to Government, Finance Department, Fort St. George, Chennai, counter-affidavits are filed by the impleaded Fourth Respondent.

13. The facts and circumstances were elaborately looked into by the Finance Department, as the Government of Tamil Nadu is an account holder in the State Bank of India and Government accounts are operated with privileges considering various factors and banking regulations. Paragraph

Nos. 6 and 7 of the counter affidavits filed by the Fourth Respondent Finance Department are relevant, which are extracted as follows:-

*“6.It is also submitted that the respondent Bank, in its counter affidavit in W.P. No. 24076 of 2016 has stated that in revised circular no. NBG/BOD-SC/71/2015-16 dated 31.12.2015, issued by the Banking operations Department, State Bank of India, cooperate centre, Mumbai, various charges have been regulated and the cash handling charge is one among them. But a copy of the said circular is not made available in the typed set of papers filed by the Second and Third Respondents hereing. Hence, the respondent Bank is put to strict proof of the said averments. Further, in the said counter affidavit there is no whisper about the permissibility of collecting cash handling charges in respect of deposits made into Government Accounts by way of challans. Hence, the Respondent Bank has failed to establish that it is permissible to collect cash handling charges in respect of money deposited by the petitioner stamp vendors into Government Account through Challans.*

*It is also submitted that during the revision of service charges by the Head Office of the State Bank of India, w.e.f., 01.10.2019, the rates of cash handling charges for various kinds of Accounts such as Savings Accounts /Current Account etc., have been prescribed. (Copy enclosed) But, in the said*

*Circular, no cash handling charges have been explicitly provided for Government receipts which shows that collection of cash handling charges for deposit of cash into Government Account through challans has not at all been permitted by the State Bank of India itself. It is therefore submitted that such cash handling charges have been collected by mistake by misinterpretation of the Circular of the Head Office of the State Bank of India and such collection being made by the Respondent Bank herein is without any authority.*

*In this regard, it is pertinent to point that, since the Third Respondent Bank itself is not clear about the permissibility of collecting cash handling charges from the petitioner, it has sought for a clarification from the AGM, SBI, Government, Banking Unit, Local Head Office, Chennai as to whether cash handling charges is applicable for stamp vendors since they are remitting money into State Government Account and not for their individual current /Savings Bank Account. The nature of the reply received is not known and the Second and Third Respondents shall be directed to produce the same before this Hon'ble Court if any reply was received. It is therefore submitted that the collection of cash handling charges from the Stamp Vendors by the Third Respondent bank while depositing money into Government Account through Treasury challans is impermissible and the Third Respondent Bank is put to strict proof of the same.*

7. It is also submitted that as per the Master Circular RBI/ 2021-22/07, DGBA, GBD No.S-2/ 31.12.2010/2021-22, dated 01.04.2021 (available in pages 16-28 of the typed set of papers filed by the Second and Third Respondents in W.P. No. 24076 of 2016) issued by the RBI on 'Payment of Agency Commission for conduct of Government Business by Agency Banks', transactions relating to Government Business, i.e., Revenue receipt and payments on behalf of the State Governments undertaken by Agency Banks are eligible for agency commission which is paid by the RBI. That being so, being a Government business in the nature of payment of money into Government Account, the Third Respondent Bank should have been paid agency commission by the RBI for the deposit of money by the Stamp Vendors in Government Account through Treasury Challans for buying Stamp papers from the Treasury. That, being so, when the Third Respondent Bank has already been paid agency commission for the above transaction, it is not justifiable on their part to collect cash handling charges from the Stamp Vendors that too when it is not specifically authorised to collect it either by the RBI or by the Head Office of the State Bank of India.

In this regard, it is also submitted that, for every Government transaction Agency commission claim for every quarter is prepared by each Agency Bank which is authenticated by the Treasury Officials for claiming the amount by Bank Authority

*from competent authority. Therefore, the cash handling charges collected from stamp vendors is not legally permissible and such collection of cash handling charges from the Stamp Vendors is liable to be set aside as illegal and without any authority.”*

14. The Government has categorically stated that no cash handling charges have been explicitly provided for Government receipts, which shows that collection of cash handling charges for deposit of cash into Government Account through Treasury Challans has not at all been permitted by the State Bank of India itself. It is, therefore, cash handling charges have been collected by mistake or by misinterpretation of the Circular of the Head Office of the State Bank of India and such collection being made by the Respondent Bank herein is without any authority.

15. The Fourth Respondent has further stated that the Third Respondent itself is not clear about the permissibility of collecting cash handling charges from the Petitioners, the clarifications sought for from the Assistant General Manager, State Bank of India, Government, Banking unit, Local Head Office, Chennai has also not been properly replied and the

Government has stated that there is no reply for such clarification from the Bank.

16. Under these circumstances, such collection of cash handling charges from the Stamp Vendors by the Third Respondent /Bank, while depositing money into Government Account through Treasury Challans is impermissible.

17. Perusal of the Master Circulars relied on by the Second and Third Respondents /State Bank of India dated 01.07.2014 and 01.04.2021 reveals that the Second and Third Respondents are unable to establish that there is a direction / instruction / permission granted by the Reserve Bank of India to collect such cash handling charges on Government transactions. In the absence of any such specific direction or instructions from the Reserve Bank of India, the State Bank of India is not entitled to collect any cash handling charges from stamp vendors. Any such collection must be strictly in accordance with the Reserve Bank of India Regulations or in accordance with the Banking Regulations. Such collection of cash handling charges cannot be assumed or collected based on certain inferences. Any such

collection must be made only, if there is a specific direction permitting the bank to collect cash handling charges.

18. However, the Second and Third Respondents /State Bank of India are unable to establish that there is a specific direction from the Reserve Bank of India for collecting such cash handling charges from the stamp vendors, while depositing money through Treasury challans.

19. During the course of hearing and considering the issues raised, this Court has noticed that in the Counter Affidavits filed, Mr.K.Lakshminarayanan, Son of S.Krishnamurthy; P.Prince Sounderraj, S/o.P.Ponnusamy; and G.Inbarasu, S/o.V.Ganapathy, have stated that *“It is always open for the Petitioners to approach any other bank and continue their banking operations”*. सत्यमेव जयते

20. The above statement in the counter filed by the State Bank of India is to be construed as an irresponsible statement. The State Bank of India is a public sector and the authorities are the public servants. The petitioners are depositing cash in the Government accounts on behalf of the Government



through Treasury Challans issued to them. The Statement portrays the administrative arrogance on the part of the authorities in exercise of their powers and the tenor of the statement is a threat to the public administration, as the stamp vendors have no option but to deposit money only in Government accounts at SBI Branches. Thus, this Court is inclined to direct the second respondent/the Assistant General Manager, State Bank of India, to initiate appropriate disciplinary proceedings by conducting an enquiry and find out on what circumstances such statements are allowed to be made in the counter affidavit filed before the High Court.

21. Today, Mrs.R.Jansi Rani, Assistant General Manager, State Bank of India, Treasury Branch, Chennai-1, Mrs.V.Sarada, Chief Manager, State Bank of India, Chennai Main Branch, and Mr.G.Inbarasu, Chief Manager, State Bank of India, Arcot Branch, are present before this Court, along with their counsel.

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22. The learned counsel appearing on behalf of the respondent-State Bank of India filed the additional affidavits of the aforesaid officials, regretting the statement made in the original counter affidavit.

23. The 2<sup>nd</sup> respondent, General Manager of State Bank of India, has to sensitize the officials in this regard to develop good conduct with the customers and the citizens, who all are approaching the Bank for transactions. These employees/officials must be reminded off that, from and out of the transactions through the customers and citizens, the salary to these employees are paid. Thus, they are expected to maintain good conduct always and honour the rights of the persons approaching the Bank.

24. It is brought to the notice of this Court by the Learned Counsel for the Petitioners that at the time of admitting the present Writ Petitions, interim orders were passed by this Court not to collect cash handling charges from the stamp vendors. However, such cash handling charges were collected.

25. Learned Counsel appearing on behalf of the Second and Third Respondents contended that in the event of producing any such proof, the bank will be in a position to respond. Thus, the Petitioners are at liberty to submit proof to establish that such cash handling charges were collected, that too when the interim order passed by this Court was in force. If such

proof is produced, the Second and Third Respondents are bound to return the money, failing which the Petitioners are at liberty to approach this Court by filing appropriate application.

26. Another observation to be made by this Court is that the respondents 2 and 3 argued that they need not respond to the letter sent by the Commissioner of Treasuries and Accounts, Government of Tamil Nadu. No doubt, the Commissioner of Treasuries and Accounts may not have administrative control over the State Bank of India, but he is an officer of the State performing solemn functions and, whenever such letters are communicated by the Governmental authorities, the State Bank of India, is bound to respond in an appropriate manner and in the event of any doubt in respect of such information given by the Commissioner of Treasuries and Accounts, they are at liberty to approach the Government for further clarification, so also the Reserve Bank of India. Contrarily, they are not expected to neglect such letters or to proceed under the pretext that they need not respond to such letters. This nature of conduct is also to be construed as irresponsible on the part of the State Bank of India authorities. Any such letters from any responsible authorities of the State, who all are

performing solemn functions of the State must be responded in the manner known to law and due courtesy is to be extended to such officials, while they are performing their administrative/public duties. The respondents 2 and 3 are expected to initiate appropriate action in this regard to sensitize the Bank officials.

27. As far as the reliefs sought for in the present Writ Petitions are concerned, the Director/ Commissioner of Treasuries and Accounts long back clarified that the collection of cash handling charges is not permissible. The Principal Secretary to Government, Finance, Government of Tamil Nadu has also filed a counter statement stating that cash handling charges are collected mistakenly by misinterpretation of the circular of the Head Office of the State Bank of India. On the verification of the Master Circulars relied on by the State Bank of India, issued by the Reserve Bank of India on 01.07.2014 and 01.04.2021, it is seen that both circulars are related to agency commission and there is no specific direction or instruction from the Reserve Bank India. Thus, it is not proper on the part of State Bank of India to collect cash handling charges from the stamp vendors. Accordingly, the Second and Third Respondents have failed to establish that they have the

authority to collect cash handling charges from the stamp vendors, who all are depositing money through Treasury Challans for purchase of stamps.

28. In view of the facts and circumstances, this Court is inclined to pass the following orders:

(1) The Collection of cash handling charges from the stamp vendors/petitioners by the 2<sup>nd</sup> and 3<sup>rd</sup> respondents are declared as illegal and without any authority. Accordingly, the respondents 2 and 3 are directed, not to collect any cash handling charges from the stamp vendors, while depositing cash in Government accounts through Treasury Challans in any of the branches of the State Bank of India.

(2) The 2<sup>nd</sup> respondent is directed to communicate this order along with necessary circular/instructions to all the branches of the State Bank of India and upload the same in the official website of State Bank of India, enabling the citizens to know their rights.

29. With the above directions, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous Petitions are closed.

***Post this matter on 20.12.2021 under the caption “For Reporting Compliance.”***

**29.10.2021**

*Maya/Jeni*  
Internet: Yes  
Index : Yes  
Speaking order: Yes

To

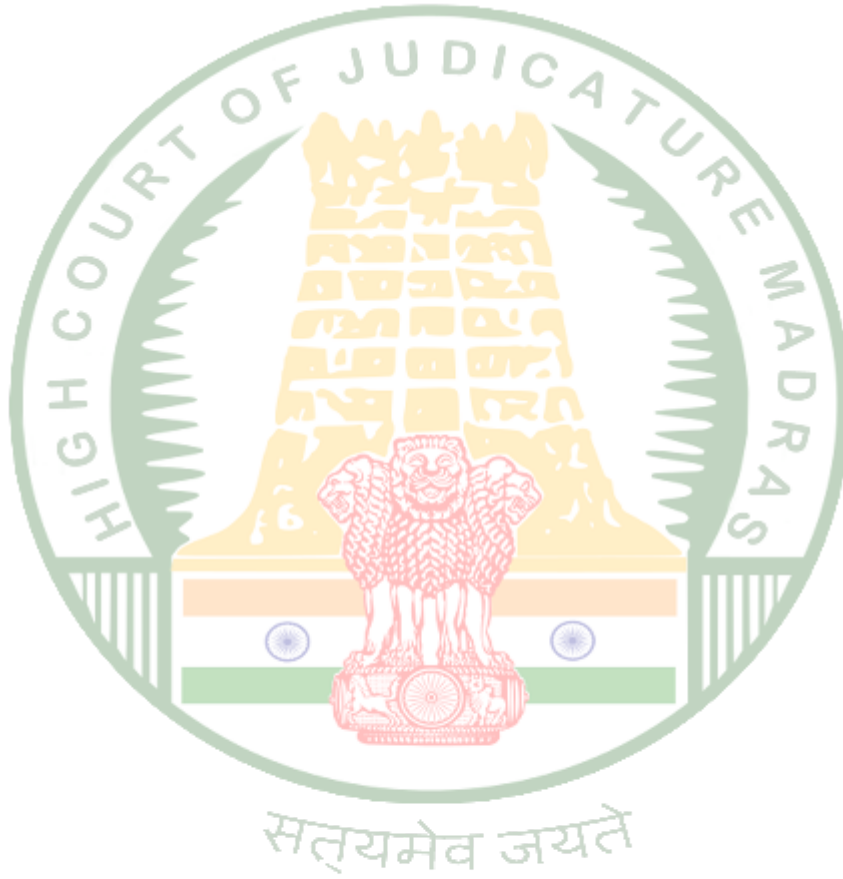
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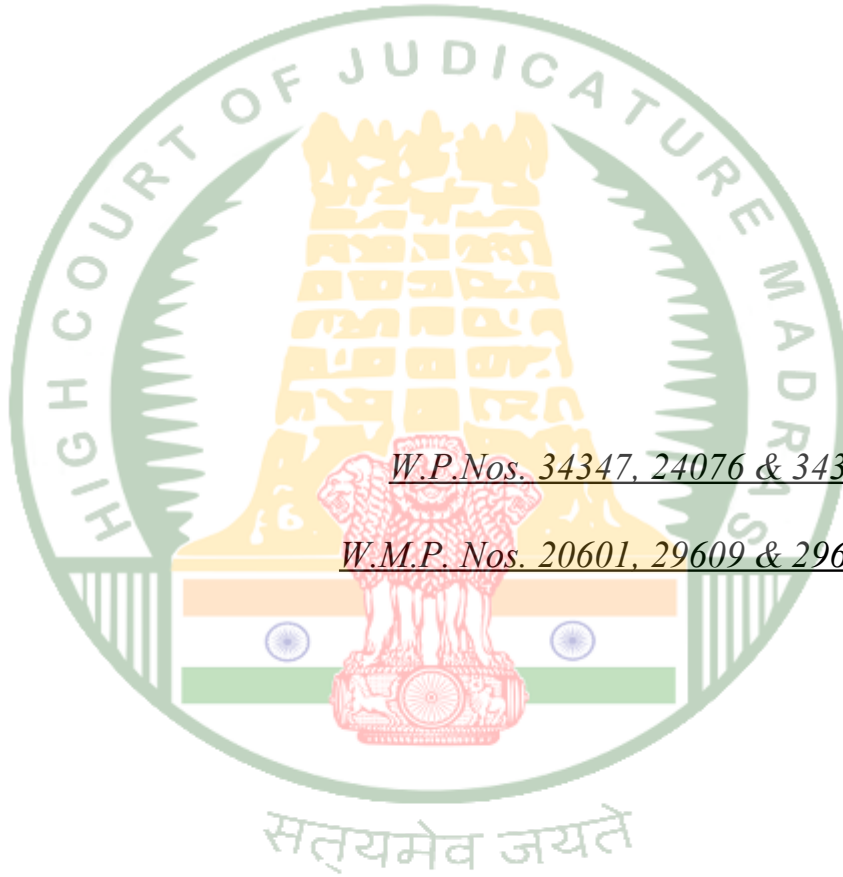


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**S.M.SUBRAMANIAM, J.**

*Maya/Jeni*



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