



W.A.No.2791 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.2791 of 2021

and C.M.P.No.18314 of 2021

M/s.Pothys
Now Pothys Private Ltd.,
Rep. by its Director, Mr.S.Ramesh,
No.15, Nageswara Rao Road,
T.Nagar, Chennai 600 017.

.. Appellant

-VS-

1. The State of Tamilnadu,
Rep. by its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai.
2. The Special Commissioner of
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-5.
3. The Commercial Tax Officer,
T.Nagar (South) Assessment Circle,
No.46, Greenways Road,
Chennai 600 028.

.. Respondent



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Prayer: Appeal filed under Clause 15 of the Letters patent against the order dated 10.08.2021 passed in W.P.No.41195 of 2006 on the file of this Court.

For the Appellant : Mr.P.Rajkumar

For the Respondents : Mr.G.Nanmaran
Spl. Govt. Pleader

* * * * *

JUDGMENT

(Judgment of the Court was made by C.Saravanan, J.)

This intra-court appeal is against the impugned order dated 10.08.2021 passed by the learned Single Judge in W.P.No.41195 of 2006.

2. By the impugned order, the learned Single Judge has dismissed the writ petition filed by the appellant herein. In the said writ petition, the appellant had challenged the assessment order passed on 28.08.2006 by the third respondent herein under the provisions of the Tamil Nadu Tax on



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Entry of Goods into Local Areas Act, 2001 (in short 'the Act of 2001). The operative portion of the impugned order reads as under:

"10. This court has to consider whether the description contemplated as air-conditioners under the Schedule would include large scale air-conditioning equipments or to be restricted to the Home Appliances i.e., the air-conditioners normally used in residences and other places.

11. The dictionary meaning of the 'Air-Conditioner' as per Oxford Advanced Learner's Dictionary is that "a maching that cools and dries air". Therefore, the equipments utilised for the purpose of conditioning the air to be included within the term of 'air-conditioners' for the purpose of imposing the entry tax under the provisions of the Act.

12. In such cases, the purposive and constructive interpretations are imminent, so as to reach the object of the Act. The various equipments are named by the manufacturers in a different style for different purposes either if the said parts or equipments are utilised for conditioning the air as air-conditioner, then it is to be brought under the entry tax net work.

13. Practically, it may not be possible for the State to incorporate all such parts, which all are utilised for the purpose of air conditioning in a building or in any place.



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However, if any such equipments are utilised for the purpose of conditioning the air, then it is to be construed that the entry tax under the provisions of the Act is leviable.

14. In the event of any other interpretation, the manufacturers or the importer of such goods or parts of the air-conditioners will escape from the clutches of the Entry Tax Act. The purpose of the Act is to ensure that the parts of the air-conditioners as well as the equipments of air-conditioners are liable for levy of entry tax.

15. This being the purpose and the object of the Act, the word 'Air-Conditioner' contemplated under the Schedule must be interpreted constructively, so as to ensure that the equipments, which all are utilised for the purpose of conditioning the air is that the air-conditioners and such equipments even if imported are liable for entry tax.

16. In the present case, admittedly, the petitioner has imported 3 Nos.217 tons refrigerating equipment of compression type with screw compressor, the Compressor has already incorporated in the Amendment Act No.51 of 2002 and water cool and exchanger compressor and Marley SR 175 cooling towers 3 Nos., the word 'Air-Conditioner' is not mentioned in the invoice and that will not dis-entitle the State from imposing entry tax in accordance with the provisions of the said Act.

17. Though the word 'air-conditioner' is not mentioned



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in the invoice issue by the manufacturers, the equipments and the utilistation of the equipments are only for air conditioning the business premises of the petitioner, who is running a Textile Shop. Therefore, the equipments imported, admittedly, are installed or commissioned and utilised for the purpose of air conditioning the business premises and therefore for all purpose, the equipments imported are the air-conditioners, within the meaning of Scheduled Goods under the Entry Tax Act.

18. In view of the said fact, the petitioner is liable to pay entry tax. However, the learned counsel for the petitioner states that the entry tax as demanded had been paid. In view of the belated payment of tax, penalty was also imposed. However, the petitioner is at liberty to approach the Competent Authority if they are otherwise eligible for reduction or waiver of penalty under the provisions of the Act.

19. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions is also dismissed."



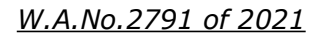
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3. The learned counsel for the appellant laboured hard before us stating that the entries under the provisions of the Act had been amended with effect from 01.07.2002 and that there is no scope for levying entry tax on 3 Nos. of 217 tons of air-conditioners. It is further submitted that the learned Single Judge has also given incorrect interpretation which impairs the appellant from approaching the appellate authority. The learned counsel for the appellant, however, admits that the entry tax has been paid by the appellant, however, he only disputes the levy of entry tax.

4. We have heard the learned counsel for the appellant and the learned counsel for the respondent Revenue.

5. On perusal of the impugned order of the learned Single Judge, we are of the view that the order does not warrant any interference, save the observations on merits. With the said liberty, we dismiss the writ appeal. However, there is no order as to costs. Consequently, connected



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(R.S.K., J.) (C.S.N., J.)
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Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-5.

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R.SURESH KUMAR, J.
AND
C.SARAVANAN, J.

(sra)

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