IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.12.2015

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

WRIT PETITION No.17374 of 2015

M/s.Khivraj Motors (P) Ltd.,
rep. by its Director,
Mr.Bharath Kumar Chordia,
No.623, Anna Salai,
Chennai. .. Petitioner

Vs.

1.The Secretary (Home),
Transport Department,
State Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The Transport Commissioner,
Chepauk, Chennai - 600 005.
.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second reapondent and its Subordinate officials to register the petitioner's CIAZ-ZDI and CIAZ-ZXI (Automatic) Vehicles dispatched by the manufacturer to the petitioner show rooms at Mount Road, Adyar and Perungudi (OMR) during January and February 2015 by accepting 10% tax at the time of its registration with reference to the petitioner's representation dated 16.5.2015.

For Petitioner : Mr.K.Azhagirisamy,
Senior Counsel, for M/s.S.Govindraman

For Respondents : Mr.A.Kumar,
Special Government Pleader

ORDER

The present Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the Transport Commissioner, Chennai / second respondent herein and his Subordinates to register the petitioner's CIAZ-ZDI and CIAZ-ZXI Vehicles despatched by the manufacturer to the petitioner show rooms at Mount Road, Adyar and Perungui(OMR) during January and February 2015 by accepting 10% tax at the time of its registration with reference to the petitioner's representation dated 16.5.2015.

2. Mr.K.Azhagirisamy, learned Senior Counsel appearing for the petitioner would submit that the petitioner company is one amongst the authorized dealers for sale and service of the vehicles manufactured by Maruthi Suzuki (Maruthi Udyog Limited) and it is having three show rooms for sales and service at Mount Road, Adyar and Perungudi (OMR). While so, one amongst the vehicles manufactured by the manufacturer is a Sedan Car called as CIAZ which comes under two variants i.e., (1) CIAZ-ZDI and (2) CIAZ-AT-ZXI. During January and February, 2015, the petitioner received certain consignments of CIAZ-ZDI and CIAZ-AT-ZXI from the manufacturer.

3. Adding further, the learned Senior Counsel appearing for the petitioner would submit that, in view of the revision of certain taxes and benefits announced in the budget of the Union Government in February, 2015 and also to meet the competitive business requirements, the manufacturer had revised and reduced the price for both CIAZ-ZDI and CIAZ-AT-ZXI Vehicles for Tamil Nadu and Puducherry to Rs.9,98,000/- on 02.03.2015. However, prior to the revision and reduction of the cost of the vehicle, the Ex-Factory Price for CIAZ-ZDI Vehicle was Rs.8,22,421/- and when it reached the dealer's show room, it was Rs.8,59,542/- (including CST, Tool Kit and Jack assembly, Transport amount and other charges and taxes) and the Ex-Show Room Price was Rs.10,29,816/- (including dealer's margin, local VAT and tool kits etc.,). Similarly, for CIAZ-ZXI, the cost of the Ex-Factory Price was Rs.8,12,385/- and when it reached dealer's show room, it was Rs.8,49,407/- and the show room price was Rs.10,09,211/-. After the revision and reduction of the cost of the vehicle, the Ex-Factory Price for CIAZ-ZDI Vehicle is Rs.8,08,756/- and when it reached dealer's show room, it is Rs.8,39,615/- and the Ex-Show Room price is Rs.9,98,000/-. Similarly, the Ex-Factory Price for CIAZ-ZXI is Rs.8,08,756/- and when it reached dealer's show room, it is Rs.8,39,615/- and the Ex-Show Room Price is Rs.9,98,000/-. It is a well known fact that the buyer is bound to pay a life time tax at the time of the registration of the vehicle as per Section 4(1-A) of the Tamil Nadu Motor Vehicles Taxation Act, 1974 in terms of the rates specified in Part I of the Third Schedule, which prescribes the rate of tax as 10% where the total cost of the vehicle does not exceed Rs.10,00,000/- and 15% where the total cost of the vehicle exceeds Rs.10,00,000/-. Therefore, the respondent cannot demand more than 10% tax, he pleaded.

4. Adding further the learned Senior Counsel appearing for the petitioner would submit that, in the meanwhile, as per the oral instructions of the Transport Department, the dealers of

Motor Vehicles on receipt of stock shall submit details of the vehicles mentioning the price of the vehicle in Form-21 to the concerned office of the Regional Transport Office where the dealers' business is situated. As the petitioner company received certain consignments of vehicles from the manufacturer during January and February 2015, the petitioner submitted Blank Form 21 containing the particulars of Vehicles and the price of the same prevailing at that time, while so, Mr.K.Azhagirisamy, the learned Senior Counsel, would submit that in view of the revision and reduction of price for both CIAZ-ZDI and CIAZ-AT-ZXI Vehicles, after the Union Budget announcement in February, 2015, as the cost of the vehicles for Tamil Nadu and Puducherry was fixed as Rs.9,98,000/-, the petitioner is bound to sell the vehicles only as per the price fixed by the manufacturer. As the cost of the vehicles has come down below Rs.10,00,000/-, the life tax payable for the purpose of registration of the vehicle by the buyer would be 10%. However, the officials of the respondent refused to accept life tax at 10% in respect of the consignments of CIAZ Vehicles received by the petitioner in January and February 2015 on the ground that the price mentioned Form 21 (Sale Certificate) is higher than Rs.10,00,000/-. It is submitted that Form 21 was submitted mentioning the price at the relevant point of time and the petitioner company is unable to sell the vehicles received during the months of January and February 2015 with pre-revised. Therefore, the petitioner had submitted a letter to the second respondent on 1.4.2015 and the manufacturer also submitted a letter dated 24.4.2015 to the second explaining in detail how the price came to be revised and reduced, hence, sought to accept 10% life tax for the vehicles received by the dealer during January and February 2015. Therefore, the learned Senior Counsel sought for a direction to the second respondent and to his subordinates to register the aforesaid vehicles by accepting 10% tax as stated above.

6. Concluding his argument, the learned Senior Counsel would submit that the life tax has to be paid on the basis of the price mentioned in the invoice and when life tax payable is at the rate of 10% under Section 4(1-A) of the Tamil Nadu Motor Vehicles Taxation Act, 1974 if the cost of the vehicle is below Rs.10,00,000/- and if the cost of the vehicle is above Rs.10,00,000/-, tax @ 15% has to be paid at the time of registration. The vehicles which were received during January and February 2015 have to be sold to the buyers under revised price which is lesser than Rs.10,00,000/- and therefore, it attracts 10% life tax, he pleaded.

7. A counter affidavit has been filed by the second respondent denying the averments made in the affidavit filed by the petitioner.

8. Opposing the prayer sought for in the Writ Petition, Mr.A.Kumar, learned Special Government Pleader appearing for the respondents would submit that every buyer of the four wheeler

vehicle is bound to pay a life time tax at the rate as specified in Part I of the Third Schedule as contemplated under Section 4 (1-A) of the Tamil Nadu Motor Vehicles Taxation Act, 1974. The petitioner has quoted the price of 2 variants of the vehicles, namely, (I) CIAZ - ZDI and (ii) CIAZ AT ZXI with regard to the Ex-Factory Price, Dealer Show Room Price and Ex-Show Room Price. Naturally, these vehicles are to be sold including CST and other costs such as dealers margin, local VAT and tool kits etc.,. which are all to be considered for the levy of life time tax. That being so, the petitioner had procured these vehicles during January and February 2015 and stocked them in order to sell them at a higher rate and get benefit in case of rise in direct or indirect taxes, generally announced at the time of budget and this is a regular practice of the dealers. While so, in the Union Budget announced on 28.2.2015, Education Cess and SHE Cess on CENVAT was revised and reduced. Since the rise or fall of direct or indirect taxes are common in every Union Budget, the petitioner cannot claim as a matter of right to reduce the tax slab of 15% to 10%. Moreover, the buyer of the vehicle alone will have to pay the life time tax as per the Tamil Nadu Motor Vehicles Taxation Act, 1974 and the dealer will do only postal work of getting the tax from the buyer and remitting into the Government Account. Hence, the petitioner company in no way put to any hardship as they are not paying the tax. As per Rule 47 (a) and (d) of the Central Motor Vehicles Rules 1989, Form 21 (Sale Certificate) is one of the accompanying documents of Form 20 , which is the application for registration of a motor vehicle, with which the motor vehicle is registered at the concerned Regional Transport Officers in whose jurisdiction normally the buyer resides by submitting the relevant address proof mentioned in Rule 4 of Central Motor Vehicles Rules, 1989. There is no such indication in Form 21 of the Central Motor Vehicles Rules 1989 with regard to the mentioning of price of the vehicle as contended by the petitioner. The registering authorities are bound to register the vehicles and collect life time tax at the prices prevailing at the time of registration. But, in the present case, the petitioner has stocked the vehicles expecting hike in the budget announcement so as to earn more profit.

9. Adding further the learned Special Government Pleader would submit that the price of the vehicles as on that date (as paid by the customers and announced by the manufacturer) would be the basis for taxation. Therefore, the registering authorities are insisting the necessary life time tax based only on the price of the vehicle prevailed on that date as announced by the manufacturer for the vehicles of two variants CIAZ - ZDI and CIAZ - AT - ZXI, which has been fixed as Rs.10,20,816/- and Rs.10,09,211/- respectively. As such, the registering authorities are correct in insisting for payment of relevant life time tax. Concluding his argument, the learned Special Government Pleader would submit that it is an admitted case that the manufacturer had announced Ex-Show Room Price in Chennai for

the above two variants of Vehicles as Rs.10,20,816 and Rs.10,09,211/- for those vehicles which had been despatched during January and February 2015 to the petitioner agency and as such, if the vehicles have been sold during the received months itself, the Government would have benefited by the life time tax since life time tax would have been collected @ 15% on the cost of the vehicles sold. Therefore, the request of the petitioner that now the cost of the vehicles have been reduced to below Rs.10,00,000/- and 10% life time tax alone is applicable cannot be accepted as it causes heavy loss to the Government.

10. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused materials available on record.

11. At the outset, it may be mentioned that this Court is unable to see any merit in the contentions of the respondents. For the purpose of registration of the vehicle, the buyer is bound to pay life time tax in the manner as contemplated under Section 4 (1-A) of the Taml Nadu Motor Vehicles Taxation Act, 1974, the relevant portion of which is extracted hereunder.

> "(1-A) Notwithstanding anything contained in sub-section (1)-
>
> (a) in respect of the motor vehicles specified in Part-I of the Second Schedule, in Part-I of the Third Schedule, in Part-I of the Seventh Schedule and in Part-I of the Eighth Schedule, at the time of its registration, a life time tax shall be paid at the rates specified in Part-I of the Second Schedule or Part-I of the Third Schedule or in Part-I of the Seventh Schedule or in Part-I of the Eighth Schedule, as the case may be, on a licence to be taken out for the life time of such vehicles.

12. When the petitioner company is an authorised dealer for sale and service of the vehicles manufactured by Maruthi Suzuki (Maruti Udyog Limited) and one amongst the vehicles manufactured by the manufacturer is a Sedan Car called as CIAZ which comes under two variants, namely, CIAZ- ZDI and CIAZ-AT-ZXI. The manufacturer previously fixed the Ex-Show Room Price for the above two variants as Rs.10,20,816/- for CIAZ-ZDI and Rs.10,09,211 for CIAZ-AT-ZXI. Accordingly, the petitioner company received certain consignments of the vehicles from the manufacturers. In the mean while, in view of certain reductions in tax and benefits announced in the Union Budget in February 2015, the manufacturer keeping in view to meet the competitive business requirements had revised and reduced the

price for both the variants of the vehicles for the State of Tamil Nadu and Pondicherry and fixed at Rs.9,98,000/- on 2.3.2015. However, prior to the revision and reduction of the cost of the vehicles, the Ex-Factory Price for CIAZ-ZDI Vehicle was Rs.8,22,421 and when it reached the dealers' show room, it was Rs.8,49,407/- and the show room price was Rs.10,09,211/-. Similarly, for CIAZ-ZXI, Ex-Factory Price was Rs.8,08,756/- and when it reached dealer show room, it was Rs.8,39,615/- and the Ex-Show Room Price was Rs.9,98,000/-.

13. Therefore, the point that arises for consideration is what would be the life time tax for the purpose of registration of the aforesaid vehicles by the buyer.

14. No doubt, the buyer is bound to pay life time tax in the manner as contemplated under Section 4(1) of the Tamil Nadu Motor Vehicles Taxation Act, 1974 at the time of the registration of the vehicle. When the petitioner company had received the vehicles from the manufacturer i.e. the date of receipt of consignments, is not a matter for payment of life time tax. But, the price or cost of the vehicle on the date of registration is crucial, since the life tax is payable on the cost of the vehicle on the date of registration. If the price of the concerned vehicle exceeds Rs.10,00,000/- on the date of registration of the vehicle, the buyer is liable to pay life time tax @ 15% on the total cost of the vehicle and if the price of the vehicle is below Rs.10,00,000/-, the life time tax liability is at the rate of 10% on the total cost of the vehicle at the time of registration as per Section 4(1) of the Tamil Nadu Motor Vehicles Taxation Act, 1974.

15. In the present case, all the vehicles will be sold subject to the payment of life time tax considering the total cost of the vehicle to be paid by the buyer. In the instant case, the total cost of the vehicles for both the variants, namely, CIAZ-ZDI and CIAZ-AT-ZXI for Tamil Nadu and Puducherry has been fixed at Rs.9,98,000/-, which is less than Rs.10,00,000/-, and therefore, it attracts only 10% life time tax on the total costs of the aforesaid vehicles.

16. Hence, the second respondent and his subordinate officials concerned are directed to collect 10% tax towards life time tax on the total cost of the aforesaid vehicles being Rs.9,98,000/-, at the time of registration. Accordingly, the Writ Petition stands allowed. No costs.
asvm

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary (Home),
   Transport Department,
   State Government of Tamil Nadu,
   Fort St.George, Chennai - 600 009.

2. The Transport Commissioner,
   Chepauk, Chennai - 600 005.

+ 1 cc to The Govt.Pleader, SR 66614/15.

+ 1 cc to M/s.S.Govindraman, Advocate Sr 67007 (8/1/16)

VGI/CO
KR/28/12

W.P.No.17374 of 2015