

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30619 of 2004
and
W.P.M.P.No.37102 of 2004

M/s.Emarald Constructions
Emerald House,
No.16, Budhar Street,
Gobichettipalayam,
Erode District

... Petitioner

vs.

The Deputy Commercial Tax Officer,
Gobichettipalayam,
Erode District

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records of the respondent in Assessment No.2962496 and quash the impugned notice dated 23.09.2004 as the same is issued without jurisdiction and also against the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles Act, 1990.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mrs.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, for the respondent.

2. The petitioner has filed this writ petition questioning the notice issued by the respondent calling upon them to pay Entry Tax at 13%.

3. The petitioner would contend that the vehicle which they had purchased is a Tata Hitachi Model Ex.110 Hydraulic Backhoe with GP Bucket and Kit. Admittedly, the vehicle is not running on inflated types, but moving on chains.

4. An identical issue was considered by this Court in the case of Rds Projects Ltd., vs., Commercial Tax Officer, Chennai [(2007) 8 VST 574(Mad). Following the said decision it is held that the entry tax cannot be demanded from the petitioner for the subject vehicle. Accordingly, the writ petition is allowed and the impugned order is set aside. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msk

To

The Deputy Commercial Tax Officer,
Gobichettipalayam,
Erode District

+1 cc to M/s.P.Rajkumar Advocate sr.35120

+1 cc to Special Government Pleader(T) sr.35489

W.P.No.30619 of 2004

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