IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-02-2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.No.4927 of 2004

M/s Susee Auto Sales & Services (P) Ltd
formerly known as Susee Auto
rep by its Managing Director,
N. Jayabalan,
No.69/70, Usilampatti Road,
Madurai .... Petitioner

vs

The Commercial Tax Officer (FAC),
Madurai Rural South
Madurai ..... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in his B-6 Notice in TNGST No.5163213/03—4 dated 23.2.2004 issued to the petitioner's Bankers namely the Canara Bank, Grand Central, Madurai for the recovery of tax arrears of Rs.28,64,681/- and quash the same and direct the respondent to raise the bank attachment.

For petitioner : Mr.S. Rajasekar

For respondent : Mr.S. Kanmani Annamalai
AGP (T)

ORDER

The petitioner has filed the above writ petition to issue a a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in his B-6 Notice in TNGST No.5163213/03—4 dated 23.2.2004 issued to the petitioner's

Bankers namely the Canara Bank, Grand Central, Madurai for the recovery tax arrears of Rs.28,64,681/- and quash the same and direct the respondent to raise the bank attachment.

2. Heard Mr.S. Rajasekar, learned counsel for the petitioner and Mr.S. Kanmani Annamalai, learned Additional Government Pleader (Taxes) for the respondent.

3. The question involved has already been decided by the Division Bench of this Court in W.A.No.1228 of 1995.

4. The learned Additional Government Pleader submitted that as against the order, passed by the Division Bench of this Court, the respondent had preferred an appeal before the Hon'ble Supreme Court and the same is pending.

5. The learned counsel for the petitioner submitted that the Hon'ble Supreme Court has not stayed the order, passed by the Division Bench of this Court.

6. Since the Division Bench decision is still holding the field, I am bound by the ratio of the said decision. Keeping in view of the said decision, which is subsequently followed in Writ Petitions in W.P.Nos.9017 and 9018 of 2003 and several other cases, I allow the writ petition with a direction to the respondent to enquire into the matter and if it is found that excess amount has been paid at the time of payment of Entry tax, the balance amount should be refunded to the petitioner, by adjusting the tax payable under the Tamil Nadu General Sales Tax Act. This may be done within a period of six weeks from the date of receipt of copy of this order.

7. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sr

To

The Commercial Tax Officer (FAC),
Madurai Rural South
Madurai

1 cc to Spl.G.P. Sr. 9030
1 cc to Mr.s R. Hemalatha, Advocate, Sr. 8801

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KJI(CO)
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