

In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition Nos.32422 & 32423 of 2003

M/s.Ganesh Automobiles rep.
by its Partner G.RamprakashPetitioner in both Petitions

Vs

The Commercial Tax Officer,
Vellore (South), Vellore.Respondent in both Petitions

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus (i) to call for the records on the file of the respondent herein in his proceedings in Rc-B1/2694/03-TNGST No.554793/1993-1994 dated 27.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.42,521/- to the petitioner relating to the assessment year 1993-94 (WP. No.32422 of 2003); and (ii) to call for the records on the file of the respondent herein in his proceedings in Rc-B1/2693/03-TNGST No.554793/ 1992-1993 dated 27.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.19,637/- to the petitioner relating to the assessment year 1992-93 (WP.No.32423 of 2003).

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai, AGP

(2)

COMMON ORDER

Heard both.

2. The petitioner seeks to quash the impugned proceedings issued by the respondent and to direct the respondent to refund the excess amounts of entry tax collected from the petitioner for the relevant assessment years.

3. Learned counsel on either side submit that the legal issue involved in these matters pertaining to refund is covered by the Hon'ble Division Bench judgment of this Court in the case

of Khivraj Motors Limitd Vs. Assistant Commissioner (CT) and another [W.A.Nos.3201 to 3204 of 2014 dated 4.2.2010 and based on the said decision, the petitioner is entitled to refund of the excess amounts of entry tax collected. The said judgment of the Hon'ble Division Bench was followed by a learned Single Judge in M/s.Susee Auto Sales & Services (P) Ltd. Vs. CTO (FAC) [W.P.No.4927 of 2004 dated 10.2.2016].

4. Following the same, the writ petitions are allowed with a direction to the respondent to enquire into the matter and if it is found that excess amounts had been collected at the time of payment of entry tax, the balance amounts shall be refunded to the petitioner by adjusting the tax payable under the Tamil Nadu General Sales Tax Act. The above direction shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Vellore (South),
Vellore.

+1cc to Mrs.R.Hemalatha, Advocate Sr.32990

W.P.Nos.32422 & 32423 of 2003

pvs[col]
srg 29/06/2016

सत्यमेव जयते

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