

In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.34008 of 2003

M/s.Ganesh Motors rep.by
its Partner G.Suresh Babu

...Petitioner

Vs

The Commercial Tax Officer, Vellore
(North) Assessment Circle, Vellore.

...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in his proceedings in TNGST No.551769/1994-1995 dated 13.11.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.1,16,307/- to the petitioner relating to the assessment year 1994-1995.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai, AGP

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 amount of entry tax collected from the petitioner for the assessment year 1994-1995.

3. Learned counsel on either side submit that the legal issue involved in this matter 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 amount 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 petition is allowed with a direction to the respondent to enquire into the matter and if it is found that excess amount had been collected at the time of payment of entry tax, the balance amount 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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer, Vellore (North) Assessment Circle,
Vellore.

+ 1 cc to M/s.R.Hemalatha, Advocate SR 32989

+ 1 cc to Spl.Govt.Pleader SR 33334

bvr(co)
prk27/6

WP.No.34008 of 2003



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