In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.34502 to 34505 of 2003

M/s.Babu Motors rep.by its
Managing Partner P.Babu ...Petitioner in all WPs

Vs

The Commercial Tax Officer,
Vridhachalam-606001. ...Respondent in all Wps

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 TNGST No.4421511/ 1995-96 dated 28.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.2,18,072/- to the petitioner relating to the assessment year 1995-96 (WP.No.34502 of 2003); (ii) to call for the records on the file of the respondent herein in his proceedings in TNGST No.4421511/1996-97 dated 28.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.1,07,544/- to the petitioner relating to the assessment year 1996-97 (WP.No.34503 of 2003); (iii) to call for the records on the file of the respondent herein in his proceedings in TNGST No.4421511/ 2001-02 dated 28.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.4,59,818/- to the petitioner relating to the assessment year 2001-02 (WP.No.34504 of 2003); and (iv) to call for the records on the file of the respondent herein in his proceedings in TNGST No.4421511/1997-98 dated 28.10.2003, quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.2,95,773/- to the petitioner relating to the assessment year 1997-98 (WP.No.34505 of 2003);

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai, AGP

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 amount 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 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 petitions are allowed with a direction to the respondent to enquire into the matters 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/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

RS

To

The Commercial Tax Officer,
Vridhachalam-606001.

1 cc to Special Government Pleader,(Taxes) Sr. 33458

WP.Nos.34502 to 34505
of 2003

CTK (CO)
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