

In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram :

The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition Nos. 36533 to 36538 of 2003

M/s. Susee Auto, rep. by its
Managing Partner N. Jayabalan

... Petitioner in
all the WPs

Vs

The Commercial Tax Officer,
Mahal Circle, Madurai.

... Respondent in
WPs. 36533 & 36534
of 2003

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

... Respondent in
WPs. 36535 to
36538 of 2003

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari and Mandamus (i) to calling for the records on the file of the respondent herein in his proceedings in Roc.A4-3972/2003(1) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.1,58,119/- to the petitioner herein relating to the assessment year 1991-92 (WP.No.36533 of 2003); (ii) to call for the records on the file of the respondent herein in his proceedings in Roc.A4-3972/2003(2) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.1,36,160/- to the petitioner relating to the assessment year 1992-93 (WP.No.36534 of 2003); (iii) to call for the records on the file of the respondent herein in his proceedings in Roc.A4-3972/2003 (4) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.10,77,534/- to the petitioner herein relating to the assessment year 1997-98 (WP.No.36535 of 2003); (iv) to calling for the records on the file of the respondent herein in his proceedings in Roc.A4-3972/2003(6) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.6,30,328/- to the petitioner herein relating to the assessment year 1999-2000 (WP.No.36536 of 2003); (v) to calling for the records on the file of the respondent

herein in his proceedings in Roc.A4-3972/2003(5) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.6,84,456/- to the petitioner herein relating to the assessment year 1998-99 (WP.No.36537 of 2003); and (vi) to calling for the records on the file of the respondent herein in his proceedings in Roc.A4-3972/2003(3) dated 13.11.2003, quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.5,15,385/- to the petitioner herein relating to the assessment year 1996-97 (WP. No.36538 of 2003);

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Heard both.

2. The petitioner seeks to quash the impugned proceedings issued by the respondents and to direct the respondents 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 respondents 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(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Commercial Tax Officer, Mahal Circle, Madurai.

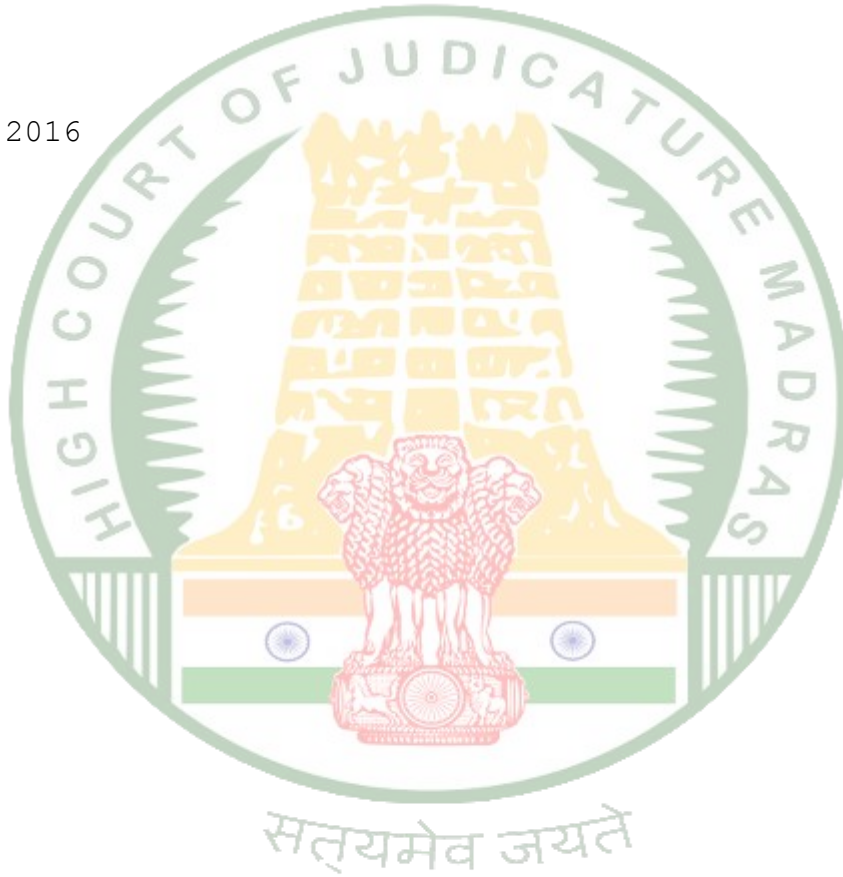
2.The Commercial Tax Officer (FAC), Madurai Rural South, Madurai.

1 cc to M/s.R.Hemalatha, Advocate, sr.32991

1 cc to Special Government Pleader, (Taxes), sr.33543

WP.Nos.36533 to 36538
of 2003

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