



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.16506 of 2016

Tvl.Orient Agency

Represented by its Proprietor. Thiru.R.L.Daga,
No.152, New Road,
Kovilpatty 628 501,
Tuticorin - District.

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government
Department of Commercial Taxes & Registration,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk,
Chennai - 600 005.

3.Commercial Tax Officer-1,
C.T.Buildings, Ettayapuram Road,
Kovilpatty - 628 501.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus to direct the third respondent to pass order on the representation date 25.06.2007, 13.08.2008 and finally on 28.04.2016 and refund a sum of Rs.3,57,832/- collected illegally towards tax and interest for the assessment years 2001- 2002 and 2002-2003 under Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 together with interest.

For Petitioner : Mr.M.MD.Ibrahim Ali

For Respondents : Mr.R.Karthikeyan

Additional Government Pleader

O R D E R

This writ petition has been filed seeking writ of mandamus to direct the third respondent to pass order on the representation date 25.06.2007, 13.08.2008 and finally on 28.04.2016 and refund a sum of Rs.3,57,832/- collected illegally towards tax and interest for the assessment years 2001- 2002 and 2002-2003 under Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 together with



interest.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The question involved in this writ petition has already been decided by a 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 Government 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 Tami Nadu General Sales Tax Act. The said exercise shall be done within period of six weeks from the date of receipt of a copy of this order. In the case of the respondent succeeding in the appeal before the Hon'ble Supreme Court of India, it is open to the respondent to recover the amount refunded to the petitioner. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

CM

To,

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes & Registration,
Fort St. George, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai - 600 005.



3.Commercial Tax Officer-1,
C.T.Buildings, Ettayapuram Road,Kovilpatty - 628 501.

+1 cc to Mr.MOMAMED IBRAHIM ALI ,Advocate, Sr.No: 49561

+1cc to M/S Special Government Pleader, Sr No. 50042

JAM/DB 2/15.09.16/ 3P-6C

W.P (MD) No.16506 of 2016
01.09.2016