IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15160 of 2004 and

Tamil Nadu Veneer (P) Ltd.,
Rep. by its Manager
Mr.G.Ravi kumar ... Petitioner

vs.

1. The Revenue Divisional Officer,
Corporation of Chennai,
Chennai - 600 003.

2. The Chairman,
Chennai Port Trust,
Chennai - 600 001. ... Respondents

Writ of Mandamus Petition filed under Article 226 of the Constitution of India, seeking direction forbearing the respondents from collecting the increased rate of Timber Tax of Rs.50 from Rs.5/-per CBM/Ton for the Timber Log goods of his Company from the Chennai Harbour to his Business factory at Gummidipundi.

For Petitioner : No appearance
For Respondent 1 : Mr.C. Ravichandran
For Respondent 2 : Mr.R. Karthikeyan

O R D E R

No representation for the petitioner.

2. The Writ petitioner has filed this writ petition, for the relief of forbearing the respondents from collecting the increased rate of Timber Tax of Rs.50 from Rs.5/-per CBM/Ton for the Timber Log goods of the Petitioner's Company form

Chennai Harbour to Gummidipundi.

3. With regard to the prayer sought for in this Writ petition, the learned Counsel for the Petitioner as well as the Respondent submitted that the subject matter of this Writ petition is squarely covered by the order of this Court dated 18.06.2012 passed in the W.P.No.27535. The respective Counsels agreed to follow the same Order which was earlier passed by this Court which is extracted hereunder;

> No representation for the petitioner.
>
> 2. The petitioner has sought for a Writ of Mandamus, forbearing the respondents from collecting the increased rate of Timber Tax of Rs.50 from Rs.5/- per CBM/Metric Ton for the timber log goods of his company from Chennai Harbour to the Godown situated at No.190, G.N.T.Road, Puzhal, Madhavaram Panchayat, Chennai-600 066.
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> 3. On this day, when the matter came up for hearing, Mr.R.Arunmozhi, learned counsel appearing for the corporation, submitted that though the Corporation of Chennai has passed a Resolution No.308/03 dated 20.06.2003, enhancing timber tax from Rs.5/- to Rs.50/-and when permission was sought for, the Government by letter dated 21.05.2005, have declined permission to enhance, on the ground that rules have to be amended. Subsequently, another resolution No.328/2005 dated 29.08.2005 has been passed. Thereafter, a decision has been taken to collect timber tax at Rs.5/-for every tonne. Proceedings dated 05.09.2005 has also been produced. Collection of timber tax is provided under Section 129 of the Chennai City Municipal Corporation Act, 1919, which is extracted hereunder :-
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> [129. Tax on timber.-- (1) If the council by a resolution determines that a tax shall be levied on timber brought into the city, such tax shall be levied at such rates, exceeding

five rupees per ton, and in such manner as may be determined by the council:

Provided that no tax shall be levied on any timber brought into the city in the course of transit to anyplace outside the city and directly removed out of the city by rail, road or water.

(2)

No timber shall, except in the case referred to in the proviso to sub-section (1). be brought into the city unless the tax due thereon has been paid

(3)

The tax shall be levied on timber kept within the city for sale if the commissioner has reason to believe that the tax, if any, due thereon has not been paid:

Provided that the tax shall not be levied if the person keeping the timber for sale produces satisfactory proof of the previous payment of the tax thereon.

(4) The commissioner may call for the accounts of any person keeping timber for sale for the purpose of levying the tax under sub-section (3).

(5)

If the commissioner is satisfied that any person has willfully evaded the payment of tax leviable under this section, the commissioner may direct that such person shall, in addition to such tax, pay by way of penalty, a sum not exceeding the amount of such tax. Such penalty shall be recoverable in the same manner as the tax.

(6)

The council may make by-laws for the seizure and sale of timber in respect of which the tax due is not aid and otherwise for carrying out all or any of the provisions relating to the levy of tax on timber].

4. The copy of the circular memorandum dated 05.09.2005 produced before this Court shall be treated as part of record.

5. In view of the above, there is no need to issue any Mandamus as prayed for. Accordingly, the writ petition is dismissed. No costs.

4. In view of the above order cited supra, the Writ Petition is dismissed. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Revenue Divisional Officer,
Corporation of Chennai,
Chennai - 600 003.

2. The Chairman,
Chennai Port Trust,
Chennai - 600 001.

+1cc to Mr.C.Ravichandran, Advocate SR.No.18922/17

+1cc to M/s.N.Karthikeyan, Advocate SR.No.19121/17

W.P.15160 of 2004

SDR 12.04.2017