

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2018

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The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.8985 of 2018
and
W.M.P.No.10837 of 2018

M/s. Khivraj Pearl
rep. by its Partner, Mr. Jethmal Chordia. ..Petitioner

Vs.

1. The Secretary (Home)
Transport Department,
State Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
2. The Transport Commissioner,
Chepauk, Chennai- 600 005.Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the second respondent and its subordinate officials to accept the lifetime tax at the rate of 10% or 15% as per the ex-showroom price with effect from 01.03.2018 and the invoice of the petitioner to the purchasers with reference to the Duster Vehicles variants viz., i) RXS85PS, ii) RXSCVTPET, iii) RXZ85PS, iv) RXZ110PS, v) RXS110PS Sandstorm, vi) RXS85PS Sandstorm, vii) RXL85PS, viii) RXE85PS, dispatched by the manufacture to the petitioner during 2016, 2017 and January and February, 2018 and to register the same in accordance with law.

For Petitioner : Mr. S. Govindaraman

For Respondents : Mr. R.P. Prathap Singh
Government Advocate

O R D E R

Heard Mr. S. Govindaraman, the learned counsel appearing for the petitioner and Mr. R.P. Prathap Singh the learned Government Advocate, appearing on behalf of the

respondents.

2. The petitioner seeks for issuance of a Writ of Mandamus, to direct the second respondent and its subordinate officials to accept the lifetime tax at the rate of 10% or 15%, as per the ex-showroom price with effect from 01.03.2018 and the invoice of the petitioner to the purchasers with reference to the Duster Vehicles variants, viz., i) RXS85PS, ii) RXSCVTPET, iii) RXZ85PS, iv) RXZ110PS, v) RXS110PS Sandstorm, vi) RXS85PS Sandstorm, vii) RXL85PS, viii) RXE85PS, dispatched by the manufacture to the petitioner during 2016, 2017 and January and February, 2018 and to register the same in accordance with law.

3. The learned counsel appearing for the petitioner submits that, an identical issue was considered by this Court, in respect of the petitioner's sister concern, in W.P.No.17374 of 2015, in M/s. Khivraj Motors (P) Ltd., Vs. The Secretary (Home) Transport Department and another, and the Court, by order, dated 10.12.2015, allowed the Writ Petition and directed the second respondent/Transport Commissioner and his subordinate officials concerned to collect tax at the rate of 10% towards life time tax on the total cost of the vehicles at the time of registration.

4. The learned Government Advocate appearing for the respondents submitted that, no Writ Appeal has been filed against the said order, dated 10.12.2015, and the present Writ Petition may be disposed of on the same lines and the life time tax should be calculated based on the total cost of the vehicle, which should be inclusive of Central Government Sales Tax (CGST) and Central Sales Tax (CST).

5. Mr.R.Amarnath, the Personal Assistant to the State Transport Authority, is present in Court and has brought to the notice of this Court Schedule iii) to the Tamil Nadu Motor Vehicles Taxation Act, which states that, the total cost of the vehicle should be taken into consideration, and if the total cost is not exceeding Rs.10,00,000/-, 10% will be taxed and if the total cost of the vehicle exceeds Rs.10,00,000/-, tax rate is 15%. Explanation under Schedule iii) of the Tamil Nadu Motor Vehicles Taxation Act also makes it clear that the 'cost of the vehicle' means cost of the vehicle paid by the purchaser at the time of purchase of the vehicle, which should be inclusive of CGST and GST.

6. In the light of the above submission, the Writ Petition is ordered and the respondents are directed to accept the life time tax at the rate of 10% or 15% based on the total cost of the vehicles, which should be inclusive of CGST and GST, with effect from 01.03.2018 in respect of the vehicles, mentioned in the prayer portion of this Writ Petition. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary (Home)
Transport Department,
State Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2. The Transport Commissioner,
Chepauk, Chennai- 600 005.

+1 CC to Govt. Pleader sr 89983.

+1 CC to Mr. S. Govindaraman, Advocate sr 29619.

+1 CC to Mr.R.P. Prathapsingh, Advocate sr 30259.

सत्यमेव जयते

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KAN(CO)
SP(08/05/2018)

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