IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2019

CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11033 of 2000
and
WMP Nos.15833/2000 & 2672/2005

Aashish Gulati .. Petitioner

Vs

1.The State of Tamil Nadu
Represented by the Secretary
Commercial Taxes Department
Chepauk
Chennai - 600 005.

2.The Deputy Commissioner
(CT) Chennai (Central Division)
Chennai - 600 006.

3.Commercial Tax Officer
Amaindakarai Assessment Circle
Chennai - 600 108. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Mandamus, forbearing the respondents and/or their subordinates from demanding and collecting any Entry Tax under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 on the vehicle imported by the petitioner bearing Registration No.TN-02-H-4932.

For Petitioner : Mr.C.Manishankar

For Respondents: Ms.G.Dhana Madhiri,
Government Advocate.

ORDER

[Order of the Court was made by Dr.VINEET KOTHARI, J]

Both the learned counsel submit that the controversy involved in this writ petition is covered by a judgment of the Co-ordinate Bench of this Court, wherein it has been held by the Co-ordinate Bench that the Entry Tax under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990, is leviable on the imported vehicles entering into the State of Tamil Nadu.

2. The relevant portions of the Co-ordinate Bench in the case of V.Krishnamurthy Vs. State of Tamil Nadu and othrs, delivered on 29.01.2019, is quoted below for ready reference:

> “67. Thus, in our considered view, the judgment in the case of Fr.Willilam Fernandez applies with full force to the cases on hand which arise under the provisions of the Tamil Nadu Act which is pari materia to the Kerala enactment, which was considered by the Hon'ble Supreme Court and levy of entry tax on imported vehicles was upheld. Thus, we are of the clear view that the prayer sought for by the writ petitioners in these cases are not tenable and the writ petitions are liable to be dismissed.
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> 68.Mr.R.L.Ramani, learned Senior Counsel assisted by Mr.B.Raveendran counsel for the petitioner in W.P.No.33525 of 2007 argued on a slightly different plain. As we can understand from the submissions of the learned counsel that the learned counsel would not seriously contest the levy of entry tax on imported vehicles as there is no submission made on that aspect, but arguments were confined only on the ground that these are fit cases where administrative waiver of taxes has to be granted.
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> 69. The submission of the learned Senior Counsel is that the firstof the decisions was rendered by this Court in a writ petition in W.P.No.498 of 1991 [M/s.Sumitomo Corporation v. State of Tamil Nadu and another] and the said writ petition was dismissed vide order dated 01.09.1999, thereby, holding that entry tax was leviable even for imported vehicles. In W.P.No.8738 of 1999 filed by M/s.TVS Electronics Limited v. The Registering Authority dated 19.04.2000, the writ petition was

allowed with a direction to register imported vehicles without collection of entry tax. The third decision is in the case of Aashish Gulati v. The State of Tamil Nadu and others W.P.No.11033 of 2000, dated 06.09.2000, whereby, the learned single Bench did not agree with the view taken in the case of Sumitomo Corporation, largely on account of the decision of the Division Bench of Kerala High Court in Fr.William Fernandez (supra). On account of the differing view, the matter was referred to the Hon'ble Chief Justice to post the case before the Division Bench. We are informed that the matter is still pending. However, the decision of the Division Bench in Fr.William Fernandez (supra) has been reversed by the Hon'ble Supreme Court and the matter has been decided against the assessee. Therefore, the said decision is an answer to the reference made in the case of Aashish Gulati (supra).

70. Therefore, in our considered view, there would be no necessity for a separate order to answer the reference and the decision of the Hon'ble Supreme Court in Fr.William Fernandez (supra) covers the issue referred for consideration of the Division Bench.

76. For all the above reasons, the writ petitions are dismissed and it is held that the petitioners are liable to pay entry tax on imported vehicles brought into the State of Tamil Nadu for use or for sale. Insofar as the miscellaneous petitions filed by the petitioners raising additional grounds are concerned, the learned Senior Counsel has not advanced any arguments, but their argument was only on the ground of administrative waiver in the light of the decision taken by us in the preceding paragraphs. Hence, there is no necessity to consider the additional grounds raised in the miscellaneous petitions. Accordingly, the same stands closed. No costs.”

3. The present writ petition is also dismissed on the same terms. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Secretary,
State of Tamil Nadu
Commercial Taxes Department
Chepauk
Chennai - 600 005.

2.The Deputy Commissioner
(CT) Chennai (Central Division)
Chennai - 600 006.

3.Commercial Tax Officer
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nr 16/12/2019