IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.13200 of 2006
and M.P.No.14810 of 2006

Dr.B. Sivanthi Adityan,
Director,
M/s.India Cabs Pvt., Ltd.,
No.17 (Old No.10),
Nungambakkam High Road,
Chennai - 600 034. ..Petitioner

Vs

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Commercial Tax Department,
Fort St., George, Chennai-9.

2.The Commercial Tax Officer,
Nungambakkam Assessment Circle.

3.The Regional Transport Officer,
Chennai - Central, Chennai. ..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the third respondent to register the passenger vehicle BMW 740LI LIMOUSINE RHD with chassis No. WBAHN62050 DN55603, Engine No.50543771, of Sterling Grey Metallic colour imported by the petitioner without insisting upon payment of entry tax.

For Petitioner : Mr.T.V. Lakshmanan

For RR1 & 2 : Mr.M. Hariharan
Additional Government Pleader

For R3 : Mr.A. Ansar
Government Advocate

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O R D E R

This writ petition has been filed by the petitioner seeking a direction directing the third respondent to register the passenger vehicle BMW 740LI LIMOUSINE RHD with Chassis No.WBAHN62050 DN55603, Engine No.50543771, of Sterling Grey Metallic colour imported by the petitioner without insisting upon payment of entry tax.

2. The learned counsel for the parties submitted their submissions before this Court that the identical issues involved in the writ petition are covered by the decision of this Court in W.P.No.32710 of 2005, dated 29.01.2019, wherein, it has been relied upon the following decision of this Court in the case V. Krishnamurthy v. The State of Tamil Nadu, wherein, it has been held in paragraph Nos.75 and 76 are as follows:-

> "75. At the first instance, we need to point that no Court can compel the Government to exercise its power to examine or for that matter to grant administrative waiver. It is a policy decision tobe taken by the Government and it is not for the Court to dictate as to whether or not the Government should exercise such power. That apart, facts of the case in which Government granted administrative waiver subject to conditions vide G.O.Ms.No.157 dated 22.04.1996 was entirely different and cannot be applied to the present cases, which arise out of a different enactment, the purport and intentbeing totally different. First of the decision was in the year 1999 holding that entry tax is leviable on import of vehicles. Another learned single Bench took a different view but did not distinguish the earlierdecision, butchoseto followthe decision of the Division Bench of the Kerala High Court in Fr. William Fernandez. In the third decision, there has been a reference because in the third decision, the first decision was noted. However, we need not labour much to make a further probe on this issue because the decision of the Division Bench of the Kerala High Court in Fr.William Fernbandez has been reversed by the Hon'ble Supreme Court and the matters have attained finality. It is not in dispute that the petitioner in W.P.No.33525 of 2007 is still in possession and ownership of the vehicle imported by them. The law on the subject as

decided by this Court as early as 01.09.1999 holds that the entry tax is leviable on imported vehicles. Therefore, we do not find any merits in the submissions that the matter should be relegated to the Government for grant of administrative waiver.

76. For all the above reasons, the writ petition is dismissed and it is held that the petitioner is liable to pay entry tax on imported vehicles brought into the State of Tamil Nadu for use or for sale. In sofar as the miscellaneous petition filed by the petitioner 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 petition. Accordingly, the same stands closed."

3. In the light of the aforesaid submissions and decision cited supra, the writ petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

msm

To

1.The Secretary to Government, Government of Tamil Nadu,
Commercial Tax Department, Fort St., George, Chennai-9.

2.The Commercial Tax Officer,
Nungambakkam Assessment Circle.

3.The Regional Transport Officer,
Chennai – Central, Chennai.

+1 cc to the Special Government pleader (Taxes)
sr 89255

W.P.No.13200 of 2006

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