IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.03.2019

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.Nos. 26401 to 26405, 26956 of 2005
&
W.P.No.50317 of 2006

W.P.No.26401 of 2005

MR.RAVI APPASAMY ..PETITIONER IN W.P.NOS.26401 TO 26405/2005

VS

1. THE STATE OF TAMIL NADU,
   REP. BY ITS SECRETARY,
   HOME (TRANSPORT) DEPARTMENT,
   FORT ST. GEORGE, CHENNAI - 09.

2. THE COMMERCIAL TAX OFFICER (WEST),
   CHENNAI.

3. THE REGIONAL TRANSPORT OFFICER,
   CHENNAI - WEST, CHENNAI.

4. THE MOTOR VEHICLES INSPECTOR - GRADE - I,
   UNIT OFFICE, CHENNAI. .. RESPONDENTS IN W.P.NOS.26401 TO 26405/2005

W.P.NO.26956 OF 2005:

SANTHANAM KRISHNANANDH PETITIONER

VS

1 THE STATE OF TAMIL NADU
  REP. BY ITS SECRETARY HOME
  (TRANSPORT DEPARTMENT),
  FORT ST. GEORGE, CHENNAI-9.

2 THE COMMERCIAL TAX OFFICER
  GREAMS ROAD, CHENNAI.

3 THE REGIONAL TRANSPORT OFFICER
  CHENNAI NORTH, CHENNAI.

4 THE MOTOR VEHICLES INSPECTOR GRADE-I
REGIONAL TRANSPORT OFFICER (NORTH)
CHENNAI. ..RESPONDENTS

W.P.NO.50317 OF 2005:

1 M/S.A.V.R.N. HOTELS PVT.LTD
REP BY ITS CHAIRMAN & MANAGING DIRECTOR
12 JAWAHARLAL NEHRI ST INNER RING ROAD
ARUMBAKKAM CHENNAI-106. ..PETITIONER

VS

1 THE STATE OF TAMIL NADU
REP BY ITS SECRETARY TO GOVT.
COMMERCIAL TAX DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 THE COMMERCIAL TAX OFFICER
VADAPALANI I ASSESSMENT CIRCLE
CHENNAI.

3 THE REGIONAL TRANSPORT OFFICER
ANNA NAGAR CHENNAI. ..RESPONDENTS

Prayer in W.P.No. 26401 to 26405 of 2005: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's Skoda Octavia 1.9 TDI Rider (Sahara Beige) car with Chasis Number TMBCGG1U65A031256 and engine number ALHE05319, Skoda Octavia 1.9 TDI Rider (White) car with Chasis Number TMBCGG1U75A031475 and engine number ALHE05706, Skoda Octavia 1.9 TDI Rider (Silver) car with Chasis Number TMBCGF1U75A030921 and engine number ALHE05171, Skoda Octavia 1.9 TDI Rider (Silver) car with Chasis Number TMBCGF1U85A030829 and engine number ALHE05212, Skoda Octavia 1.9 TDI Rider (Silver) car with Chasis Number TMBCGF1U05A030937 and engine number ALHE05188, respectively.

Prayer in W.P.No.26956 of 2005: Petition under Article 226 of the Constitution of India praying forbearing the respondents and their subordinates from demanding of collecting entry tax on the petitioner Mitsubishi Pajero with Chassis No.V24-0000555 to be registered and assigned new registration mark by the 3rd and 4th respondents.

Prayer in W.P.No.50317 of 2006: Petition under Article 226 of the Constitution of India praying a Writ of Mandamus directing the respondents not to demand entry tax on the passenger car BMW

730LD LIMOUSINE RHD with chassis no.WBAHM42080 DG68620 Engine No.21676357 of Titanium Silver Metallic colour imported by the petitioner.

For Petitioners in all WPs : Mr.B.Sathish Sundar

For Respondents in all WPs : Mrs.K.Bhuvaneswari
Additional Government Pleader
for R.1,3,4.
Mr.M.Hariharan,
Additional Government Pleader
for R.2.

COMMON ORDER

The issue involved in the present writ petitions is as to whether the respondents herein have a right to demand entry tax, was a subject matter in W.P.No.32710 of 2005, in which, the Hon'ble Division Bench of this Court by order dated 29.01.2019 had held as follows:

> "75. At the first instance, we need to point out 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 to be 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 intent being 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 earlier decision, but chose to follow the 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 Fernandez has been reversed by the Hon'ble Supreme Court and the matters have attained finality. It is not is 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."

3. In view of the above decision rendered by the Hon'ble Division Bench of this Court, the position stands to the effect that the respondents are entitled to levy entry tax on imported vehicles. As such, no fruitful orders can be passed in the prayer sought for in the present writ petitions. Hence, these writ petitions stand dismissed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kkn/jas

To

1. The State of Tamil Nadu,
   rep. By its Secretary,
   Home (Transport) Department,
   Fort St. George, Chennai - 09.

2. The Commercial Tax Officer (West),
   Chennai.

3. The Regional Transport Officer,
   Chennai - West, Chennai.

4. The Motor Vehicles Inspector - Grade - I,
   Unit Office, Chennai.

5. The Commercial Tax Officer,
   Greams Road, Chennai.

6. The Regional Transport Officer,
   Chennai - North.

7. The Commercial Tax Officer,
   Vadapalani I Assessment Circle, Chennai.

8. The Regional Transport Officer,
   Anna Nagar, Chennai.

9. The Motor Vehicles Inspector - Grade - I,
   Regional Transport Office (North)
   Chennai.

+1 cc to the Spl. Government Pleader (taxes), S.R.No.21004

+1 cc to the Government Pleader, S.R.No.21454

W.P.Nos. 26401 to 26405, 26956 of 2005
&
W.P.No.50317 of 2006

GP(CO)
SSM(12/06/2019)