

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM

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

W.P.No.4617 of 2011

M/s.T.Sambandamurthy Chetty,
Rep.by its proprietor T.G.Arumugam,
33, Thyappa Mudali Street,
Chennai -1.

... Petitioner

Vs.

- 1.The Assistant Commissioner (CT),
Mannady (East) Assessment Circle,
191, NSC Bose Road,
Wavoo Building,
Chennai - 1.
- 2.The State of Tamil Nadu,
Rep.by its Secretary,
Commercial Taxes & Registration Department,
Fort St.George,
Chennai - 9.

...Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent herein to refund the entry tax paid by the petitioner of Rs.11,87,976-00 as per the representation dated 13.09.2007 and 16.09.2010.

For Petitioner : Mr.R.Kumar

For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

In the light of the decision of the Hon'ble Apex Court in the case of Jindal Stainless Steel vs. State of Haryana reported in 2016 (11) SCALE 1, and in the case of ITC Limited and another in Civil Appeal Nos.11086 to 11089 of 2017 dated 23.08.2017, the hon'ble Apex Court had clarified that the State of Tamil Nadu shall not realise the entry tax, insofar as it pertains to the

period commencing from 27.03.2002 to 01.04.2007 with regard to tobacco product, since for this period of levy, it is found to be discriminatory for the said product. As such the petitioner's claim for refund for the entry tax on tobacco products for the Assessment Year 2003 - 2004 squarely falls within the clarification issued by the Apex Court in ITC Limited case.

2. In the light of the above observations, there shall be a direction to the first respondent to refund the entry tax paid by the petitioner for the Assessment Year 2002 - 2003, within a period of six weeks from the date of receipt of a copy of this order.

3. With the above observations, the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

Pns
To

- 1.The Assistant Commissioner (CT),
Mannady (East) Assessment Circle,
191, NSC Bose Road,
Wavoo Building,
Chennai - 1.
- 2.The Secretary,
Commercial Taxes & Registration Department,
Fort St.George,
Chennai - 9.

+lcc to Mr.R.Kumar, Advocate Sr.63745
+lcc to the Special Government Pleader Sr.64267

WEB COPY

W.P.No.4617 of 2011

srg 30/08/2019