

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2019

CORAM

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

W.P.No.4605 of 2013
and
M.P.Nos.1 & 2 of 2013

M/s.DLF Assets Private Limited,
1/24, Shivaji Gardens,
Manapakkam, Ramapuram
Mount Poonamalle Road,
Chennai - 600 089,
represented by its
Senior Manager-Commercial & Taxation ..Petitioner

.Vs.

- 1.The State of Tamil Nadu,
represented by the
Secretary to Government,
Department of Commercial Taxes and
Religious Endowments,
Fort St.George, Chennai - 600 009.
- 2.The Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.
- 3.The Assistant Commercial (CT) (FAC),
Alandur Assessment Circle,
Alandur, Chennai - 600 016.
- 4.The Regional Transport Officer,
47/48, Kalli Amman Koil Street,
Sai Nagar, Viragambakkam, Chennai - 92. ..Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the second respondent pursuant to the Letter No.Act Cell - IV/25898/2012 dated 28.01.2013 and quash the impugned notice on the ground that it is repugnant to Section 2 (f) of the Tamil Nadu Special Economic Zones (Special Provisions) Act, 2005 and Section 2 (g) of the Special Economic Zones Act, 2005.

For Petitioner : Mrs.Radhika Chandra Sekhar
for M/s.K.Vaitheeswaran

For Respondents : Mr.V.Hari Babu
Additional Government Pleader
for R1 to R3

: Mr.A.Zakir Hussain,
Government Advocate for R4

O R D E R

Section 12 (1) (c) of the Tamil Nadu Special Economic Zones (Special Provisions) Act, 2005 provides for exemption from payment of tax under the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 in respect of every Developer or Entrepreneur of a property. When the petitioner herein had made an application on 01.08.2012, before the second respondent herein, seeking for "No Liability Certificate" for Entry Tax under the Motor Vehicles Act, the same came to be rejected through the impugned order dated 20.01.2013, predominantly on the ground that the petitioner being a co-developer is not entitled for exemption of payment of Entry Tax under the Act.

2. Such a reason is incorrect. Section 2 (g) of the Special Economic Zones Act, 2005 defines the term 'Developer' to include a 'Co-developer' also. However, Section 2(f) of the Tamil Nadu Special Economic Zones (Special Provisions) Act, 2005, states that all other words and expressions used are not defined in this Act, but defined in the Special Economic Zones Act 2005, shall have the meanings as originally assigned to them in that Act. In view of the same, the term co-developer for the purpose of the provisions of the Tamil Nadu Act, would also include a co-developer. Viewed from this angle also, the reasoning of the second respondent is patently erroneous, since the petitioner, though a co-developer, would squarely fall within the purview of the Tamil Nadu Act for the purpose of claiming exemption.

3. Apart from this reasoning, there is no other reason assigned by the second respondent for rejecting the petitioner's claim for "No Liability Certificate". Consequently, it can only be held that the petitioner would be entitled for "No Liability Certificate".

4. In the light of the above observations, the second respondent shall issue a "No Liability Certificate" under the Entry Tax Act for Hydraulic Platform Bronto Skylift, (Fire & Safety Vehicle) chassis No.WDB9323172L577892 which was imported from Finland" for the petitioner's use within the Special Economic Zones, within a period of 15 days from the date of receipt of a copy of this order.

5. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Pns

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The State of Tamil Nadu,
represented by the
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Chennai - 92.

+1cc to the Govt.Pleader, Vide Sr.No. 69785
+1cc to the Special Govt.Pleader (Taxes), vide SR.No.69981
+1cc to Mr.K.Vaitheeswaran, Advocate, SR.No.69504

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Kak(10/10/2019)