BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.11432 and 11433 of 2016
and
W.M.P.(MD)No.8748 and 8749 of 2016

Deccan Construction & Co.,
Represented by its Partner,
Mr.R.Ashwin Sehar,
S/o.T.Ramesh, No.64, New Pankajam Colony,
Kamarajar Salai,
Madurai - 09. ... Petitioner in W.P.(MD)No.11432 of 2016

P.K.Mookanambalam & Co.,
Represented by its Partner,
Mr.K.Arumugasamy, S/o.Kaliyappa Nadar,
21, Jawar Street, Gandhinagar,
Madurai - 20. ... Petitioner in W.P.(MD)No.11433 of 2016

/Vs./

1.The State of TamilNadu,
Represented by the Secretary to Government,
Commercial Taxes Department &
Religious Endowments Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Commissioner (CT),
Thallakulam Assessment Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai 625 020.

3.The Registering Authority,
Regional Transport Officer,
Madurai Central, Madurai. ...Respondents in both petitions

COMMON PRAYER:- Writ Petitions - filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the third respondent herein to re-register the petitioners' Self Loading Concrete Mixer vehicle, make Ajax Fiori, bearing Chassis No.ARGO4-2016-05-3648 purchased from Bangalore, Karnataka State and assigned temporary registration No.KA-01/TV002370/2016-17, dated 28.05.2016 & Road Roller, Case New Holland make, bearing Chassis No.NKJ1107DEGKT03606 purchased from Maharashtra State and assigned temporary registration No.9216222589311, dated 27.05.2016 without insisting on the payment of 15% of the entry levy and without insisting on the payment of Entry Tax and Penalty or without insisting on the No objection Certificate from the 2nd respondent respectively.

For Petitioners : Mr.M.Sridharan (in both Wps)

For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader(in both WPs)

COMMON ORDER

These writ petitions seek Mandamus, directing the respondents to register the petitioners' vehicles (Self Loading Concrete Mixer vehicle, make Ajax Fiori & Road Roller, Case New Holland make) purchased under two Invoices, both dated 20.05.2016 and 28.05.2016, without collecting entry tax under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 (in short 'Act').

2. The petitioners have filed Writ of declaration challenging the provisions of the Act in W.P.(MD)No.11868 and 11869 of 2012, which have been transferred by me today to the file of the Division Bench of this Court.

3. In the present cases, the petitioners have raised several challenges to the levy of entry tax, per se and the writ petitions are styled more as a writ of declaration though, in conclusion, only mandamus is sought.

4. The levy of entry tax has been the subject of challenge on various grounds and the Supreme Court, in a judgment rendered by a Nine Judges Bench in the case of Jindal Stainless Limited and another vs. State of Haryana and others [(2017) 12 STC 1] has settled most of the issues raised barring two relating to (i) whether the levies satisfy the test of whether the tax burden on imported goods and goods produced legally is not discriminatory but equal and (ii) whether the entire state could be notified as a local area.

5. Be that as it may, there can be no direction issued to the statutory authorities not to make an assessment, although any assessment framed would have to be in accordance with the provisions of the Act. Thus, these Writ Petitions are dismissed with no order as to costs.

6. Liberty is granted to the respondents to proceed with assessment strictly in line with the judgment of the Supreme Court in Jindal Stainless Steel (supra). The petitioners have been granted an interim injunction on 30.06.2016 conditional upon the petitioners remitting 15% of the tax in each case. The petitioners state that this order has been complied with. The refund of this amount shall

be subject to the assessments, as and when completed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
Commercial Taxes Department &
Religious Endowments Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Commissioner (CT),
Thallakulam Assessment Circle,
C.T.Buildings, Dr.Thangaraj Salai,
Madurai 625 020.

3.The Registering Authority,
Regional Transport Officer,
Madurai Central, Madurai.

Common Order made in
W.P.(MD)No.11432 and 11433 of 2016
Dated: 24.06.2019

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