IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.10217 of 2016
and
W.M.P.No.9069 of 2016

M/s.NRS Earth Movers,
Represented by R.Singaravelu,
Mailam Road, Kootteripattu,
Tindivanam Taluk. ... Petitioner

Vs.

Commercial Tax Officer, (Addl),
Tindivanam. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, call for the records of the Respondent in order dated 14.08.2015 in TIN.33134724211/2012-13 and quash the same.

For Petitioner : No appearance

For Respondent : Mr.A.N.R.Jayaprathap
Standing Counsel

O R D E R

No representation for the petitioner when the case was called. It is therefore taken up for final disposal.

2.The petitioner is aggrieved by the impugned order dated 14.08.2015 bearing reference No.TIN.33134724211/2012-13. By the impugned order, the petitioner has been called upon to pay Entry tax at 14.5% which had escaped payment of tax and penalty there on.

3.It is the contention of the petitioner that what is sought to be taxed is not a motor vehicle with the meaning of Motor Vehicles Act, 1988 and therefore there is no basis on which tax can be demanded under Section 3 of the Tamilnadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

4.It appears that the petitioner was issued with a notice. However, the petitioner failed to file any reply which was culminated in the impugned order of the respondent.

5. The petitioner has filed a photo copy of the machine on which entry tax has been demanded. Since the issue involves disputed question of fact, I am not convinced with the petitioner's entitled to relief in this Writ Petition. Therefore without expressing any opinion on the merits of the case, Writ Petition is dismissed giving a liberty to the petitioner to file a statutory appeal within a period of 30 days from the date of receipt of a copy of this order. Since the limitation for filing the appeal had already expired. The petitioner is therefore directed to file an appeal within a period of 30 days from the date of receipt of a copy of this order. In case, the petitioner files such an appeal within the aforesaid period, the Appellate authority is requested to dispose the appeal on merits. In case, the petitioner fails to file such appeal, the respondent are liberty to proceed in accordance with law to recover the tax.

6.The Writ Petition stands dismissed with the above observation. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

Commercial Tax Officer, (Addl),
Tindivanam.

+1cc to Mr.Adithya Reddy, Advocate SR.No.15426

+1cc to Special Government Pleader(Taxes) SR.No.16403

W.P.No.10217 of 2016
and
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VSN II(CO)
GMY(09/07/2020)