IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.16454 of 2016
and
W.M.P.Nos.14222 & 14223 of 2016

M/s.Khivraj Vahan Private Limited,
Rep. by Director Ajit Kumar Chordia,
No.617, Bharat Kumar Bhavan,
Anna Salai, Chennai - 600006. …Petitioner

.Vs.

1. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600005.

2. The Assistant Commissioner (CT),
   Pattaravakkam Assessment Circle,
   Chennai. …Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in his clarification in Lr.No.K.Dis. Acts Cell-IV/22328/2002 dated 09.07.2002, quash the same and further direct the 1st respondent to re-do the clarification in accordance with the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

For Petitioner : Ms.Madhumitha
for Mr.S.Raveekumar

For Respondents: Mr.R.Swarnavel
Government Advocate

O R D E R

Today, the matter is listed through Video Conferencing. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The clarification issued by the first respondent with regard to levy of entry tax of a motor vehicle entering a local area is under challenge in the present Writ Petition.

3. It is brought to the notice of this Court that the same impugned clarification was already challenged in M/s.ABT (Madurai) Pvt. Ltd. vs. The Commissioner of Commercial Taxes in W.P.No.29576 of 2005 and this Court, by an order dated 02.01.2018, had directed the Commissioner of Commercial Taxes to issue notice to all the dealers in the State of Tamil Nadu calling for their objections in connection with the review of the impugned clarification. This Court is also inclined to pass similar orders in the present Writ Petition.

4. Pending the Writ Petition, an order of interim injunction was passed in favour of the petitioner in W.M.P.No.14223 of 2016 in W.P.No.16454 of 2016.

5. In the light of the decision taken by this Court in W.P.No.29576 of 2005 for reviewing the impugned clarification and also extending the interim injunction granted in favour of the petitioner therein, the present Writ Petition stands disposed of. The petitioner herein is directed to file a petition to review the impugned clarification and if such petition is filed, the first respondent herein is directed to issue notice to the petitioner and all other automotive dealers in the State of Tamil Nadu including any association or representative body representing the automotive dealers and after affording an opportunity of personal hearing, pass fresh orders on merits and in accordance with law. The interim order granted in favour of the petitioner will continue and the second respondent shall not demand any tax from the petitioner subject to the condition that the petitioner pays entry tax at the time of sale. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk, Chennai - 600005.

2. The Assistant Commissioner (CT),
   Pattaravakkam Assessment Circle,
   Chennai.

+1cc to Mr.S.Ravee Kumar, Advocate, Sr.No.28030
+1cc to the Special Govt. Pleader (Taxes), Sr.No.27958

W.P.No.16454 of 2016
and
W.M.P.Nos.14222 & 14223 of 2016

vsn ii (co)
rr ii (16/09/2020)