IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2021

CORAM:

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

WP NOS.29542 TO 29545 OF 2002

WP No.29542 of 2002

Thiru.V.Palanivelu

.. Petitioner

Vs

The Deputy Commercial Tax Officer-I,
Pattukkottai.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings RC.4936(3)2001 (A1), Entry Tax 3/92-93, dated 5.2.2002 and Quash the same as illegal with regard to imposition of penalty under Section 15(1) and 15(2) of the Act 13 of 1990 and direct the respondent herein to return the Entry Tax already paid by the petitioner.

WP No.29543 of 2002

Muthaiyan

.. Petitioner

Vs

The Deputy Commercial Tax Officer-I,
Pattukkottai.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings RC.4936(2)2001 (A1), Entry Tax

2/92-93, dated 5.2.2002 and Quash the same as illegal with regard to imposition of penalty under Section 15(1) and 15(2) of the Act 13 of 1990 and direct the respondent herein to return the Entry Tax already paid by the petitioner.

WP No.29544 of 2002

T.Maria Michael

.. Petitioner

Vs

The Deputy Commercial Tax Officer-I,
Pattukkottai.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings RC.4936(4)2001 (A1), Entry Tax 4/92-93, dated 5.2.2002 and Quash the same as illegal with regard to imposition of penalty under Section 15(1) and 15(2) of the Act 13 of 1990 and direct the respondent herein to return the Entry Tax already paid by the petitioner.

WP No.29545 of 2002

K.Subramanian

.. Petitioner

Vs

The Deputy Commercial Tax Officer-I,
Pattukkottai.

.. Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings RC.4936(1)2001 (A1), Entry Tax 1/92-93, dated 5.2.2002 and Quash the same as illegal with regard to imposition of penalty under Section 15(1) and 15(2) of the Act 13 of 1990 and direct the respondent herein to return the Entry Tax already paid by the petitioner.

For Petitioner : Mr.R.Chellamuthu
in all Wps

For Respondent : Mr.V.Nanmaran
in all Wps. Government Advocate.

COMMON ORDER

The orders dated 05.02.2002, levying entry tax regarding purchase of Diesel Agricultural Tractors, are under challenge in the present writ petitions. As the facts pleaded and the submissions made are one and the same, all these writ petitions are taken up together, heard and disposed of by this common order.

2. Each of the petitioners herein purchased Mahindra B.275 Model 35 HP (MICO) Diesel Agricultural Tractor, and the respondent levied entry tax as per the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into the Local Areas Act, 1990 (Act 13 of 1990). Separate show cause notices were issued and the petitioners submitted their objections. Considering the objections, the orders impugned dated 05.02.2002 were issued by the Deputy Commercial Tax Officer/respondent herein.

3. The orders impugned would reveal that an appeal lies before the Assistant Commissioner of Commercial Taxes, against the said orders. Admittedly, the writ petitions are filed challenging the original orders dated 05.02.2002 alone. However, the petitioners state that they filed appeals separately before the Assistant Commissioner, who in turn returned the appeals on 21.03.2002 on the ground that the assessees have not credited penalty amount into the Government Treasury. In view of the fact that the assessees have not fulfilled the conditions stipulated under provisions of the Act, the appeals were rejected.

4. The revision filed by each of the petitioners before the Special Commissioner and Commissioner of Commercial Taxes, Chennai, were also rejected on 22.05.2002 by stating that the petitioners have not fulfilled the conditions prescribed under Section 13(3) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

5. The petitioners have not taken any effort to restore the appeals by complying with the provisions contemplated under the statute. The appeals filed by the petitioners were rejected merely on the ground that they have not complied with the stipulations prescribed under the provisions of the Act. Instead of complying with the requirements and representing the same for the purpose of adjudication, the petitioners have chosen to file the present writ petitions, challenging the original orders dated 05.02.2002 alone. Thus, the relief as such sought for cannot be granted. However, when the statute provides for an appeal remedy, if any grievances exists, it is for the petitioners to redress the same in the manner known to law.

6. With these observations, the writ petitions are dismissed. No Costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer-I,
Pattukkottai.

+2ccs to Mr.R.Chellamuthu, Advocate, S.R.No.46921, 46922

WP Nos.29542 to 29545 of 2002

PVS(CO)
RLP(05/10/2021)