WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17957 of 2006

M/s Vishnu Automation,
Represented by its Partner S. Saravanan
1/45, New Thillai Nagar, Second Avenue,
4th Cross, Marudhamalai Main Road,
P.N. Pudur P.O., Coimbatore -41

...Petitioner

Vs

The Commercial Tax Officer (Full Additional Charge)
Perur Assessment Circle,
18, Balasundaram Road,
Coimbatore - 18

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the Respondent in his proceedings in Entry Tax 01-02 (TNGST RC 1921796) dated 12-05-06 and quash the same as illegal and to issue any further direction or order as this Honourable High Court may deem fit and proper in the circumstances of the case and render justice.

For Petitioner : R.Senniappan.

For Respondent : Mr.V.Veluchamy
Government Advocate

O R D E R

The assessment order dated 12.5.2006 passed by the respondent is under challenge in the present writ petition.

2. The petitioner is a Registered dealer and an assessee on the books of the respondent. The respondent issued show cause

WEB COPY

notice for Entry Tax for the year 2001-02 on 27.03.2006, wherein proposed to fix a turnover of Rs.32,46,718/- and bring the same tax to tax at 4% under Section 3 of Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001. The respondents further levied penalty under Section 10(2) of the said Act. The petitioner submitted its objections on 19.4.2006, stating that the petitioner is not liable to pay as he purchased the steel rods involved in the business during the assessment year and therefore for the particular Assessment Year 2001-02, the petitioner is not liable to pay Entry Tax and consequently, the impugned order lacks jurisdiction.

3. The learned counsel for the petitioner drew the attention of this Court with reference to the amendment issued in Notification G.O.Ms.No.81, Commercial Taxes (C2) dated 1st July 2002. As per the said amendment, the steel rods and steel semis were inserted with effect from 1st July 2002. As far as the iron and steel are concerned, the amendment was issued in G.O.Ms.No.28 dated 27th March 2002. However, the petitioner states that he purchased semis steel roads, which was inserted in the schedule only with effect from 1st July 2002.

4. The learned Government counsel appearing on behalf of the respondent is unable to dispute the said amendment published in Notification dated 1st July 2002.

5. This Court is of the considered opinion that the steel rods are inserted in the Schedule for the purpose of levying tax only through amendment with effect from 1s July 2002 and therefore, the levy of Entry Tax is to be made prospectively with effect from the date of Notification and retrospective imposition is impermissible. As on the date, when the petitioner purchased steel rods during the Assessment Year 2001-02, it was not made available in the list of taxable goods under the Entry Tax Act. Thus, the respondent had no authority to levy tax in respect of the Assessment Year 2001-02 as the amendment was effected with effect from 1st July 2002 beyond the period of the Assessment Year 2001-02.

6. This being the factum established, the impugned order passed by the respondent in proceedings in Entry Tax 01-02 (TNGST RC 1921796) dated 12.5.2006 is quashed and the writ petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

Nst

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

To

The Commercial Tax Officer (Full Additional Charge)
Perur Assessment Circle,
18, Balasundaram Road,
Coimbatore - 18 .

+1cc to Mr.R.Senniappan, Advocate, S.R.No.44776

+1cc to the Government Pleader, S.R.No.44947

W.P.No.17957 of 2006

NR(CO)
RLP(24/09/2021)