IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.08.2021

CORAM :

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

W.P.Nos.18215, 18219, 18223 & 18320 of 2006

M/s.Seaport Logistics Private Ltd.,
No.25, Krishnadass Road,
Perambur, Chennai - 600 012. ...Petitioner in all WPs.

Vs

1. The Government of Tamil Nadu,
   Rep. By its Secretary to Government,
   Commercial Tax Department,
   Fort St. George,
   Chennai - 600 009.

2. The Asst. Commissioner of
   Commercial Taxes,
   DC Central Division,
   Greams Road, Chennai - 600 006.

3. The Regional Transport Officer,
   Chennai (North),
   Vyasarpadi, Chennai - 600 039. ...Respondents in all WPs.

PRAYER In WP No.18215 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent herein to register the imported vehicle bearing Chassis No.10603114, Engine No.B7615600646 in the name of the petitioner company without insisting upon payment of Entry Tax.

PRAYER In WP No.18219 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent herein to register the imported vehicle bearing Chassis No.10601005, Engine No.06020142415 in the name of the petitioner company without insisting upon payment of Entry Tax.

PRAYER In WP No.18223 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent herein to register the imported vehicle bearing Chassis No.10511066 in the name of the petitioner company without insisting upon payment of Entry Tax.

PRAYER In WP No.18320 of 2006: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent herein to register the imported vehicle bearing Chassis No.10603075, Engine No.B7615600515 in the name of the petitioner company without insisting upon payment of Entry Tax.

For Petitioner in all WPs.	:	Mr.A.S.Balaji
For Respondents in all WPs.	:	Mr.V.Veluchamy Government Advocate.

C O M M O N   O R D E R

The relief sought for in the present Writ Petitions is to direct the third respondent viz., The Regional Transport Officer, Chennai (North), Vyasarpadi, Chennai - 600 039, to register the imported vehicles bearing Chassis Nos.10603114, 10601005, 10511066 and 10603075 in the name of the petitioner without insisting upon payment of Entry Tax.

2. The petitioner is a Company states that 4 nos. of Wheel Loader with standard accessories bearing Chassis Nos.10603114, 10601005, 10511066 and 10603075 were purchased from China, who has done the shipment and paid customs duty for clearing the vehicle through the concerned Customs Authorities. The petitioner presented the vehicles for registration. However, the respondents insisted for payment of Entry Tax and thus, the petitioner has chosen to file the present Writ Petitions.

3. The issue raised in the present writ petitions is no more res integra. The Hon'ble Supreme Court of India in the case of State of Kerala v. Fr.William Fernandez, reported in [2018] 57 GSTR 6 (SC), has held as follows:

> "No court can compel the Government to exercise its power to examine or for that matter to grant administrative waiver. It is a policy decision to be taken by the Government and it is not for the Court to dictate as to whether or not the Government should exercise such power. The law on the subject as decided by this Court as early as September 1, 1999 holds that the entry tax is leviable on imported vehicles. Therefore, the submission that the matter should be relegated to the Government for grant of administrative waiver is not tenable."

4. The said judgment was followed by the Hon'ble Division Bench of this Court in the case of V.Krishnamurthy Vs. State of Tamil Nadu and Others, reported in [2019] 69 GSTR 326 (Mad).

5. This Court has elaborately discussed the principles as well as Writ Petition filed on similar prayer and further the manner in which the writ petition is pursued by the litigant in W.P. No. 33800 of 2015 dated 05.08.2021. The elaborate discussions are made in that Writ Petition and therefore, the observations made in the above Writ Petition would be applicable in respect of the present Writ Petitions also.

6. Today, the learned counsel appearing on behalf of the writ petitioner submitted that the petitioner has already paid the tax due by way of Pay Orders. The said Pay Orders submitted by the learned counsel for the petitioner on behalf of the petitioner has been received by Mr.R.Parthiban, Assistant Commissioner (ST), Harbour Assessment Circle, Chennai-3 and the said officer acknowledged the receipt of the Pay Orders. The details of the Pay Orders, are as follows:

Sl.No.	WP No.	Tax Amount	HDFC Pay Order No.	HDFC Pay Order Date	Pay Order Amount
1	18215/2006	Rs.2,13,732/-	301610	10/08/21	Rs.2,13,732/-
2	18219/2006	Rs.3,85,990/-	301611	10/08/21	Rs.3,85,990/-
3	18223/2006	Rs.3,64,535/-	301609	10/08/21	Rs.3,64,535/-
4	18320/2006	Rs.2,13,732/-	301612	10/08/21	Rs.2,13,732/-

7. In view of the fact that the petitioner has already paid the entire Entry Tax arrears one day before taking of the present Writ Petitions, no further consideration is required in respect of the relief sought for in the present Writ Petitions.

8. Accordingly, all the Writ Petitions stand disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
   Government of Tamil Nadu,
   Commercial Tax Department,
   Fort St. George,
   Chennai - 600 009.

2. The Asst. Commissioner of
   Commercial Taxes,
   DC Central Division,
   Greams Road,
   Chennai - 600 006.

3. The Regional Transport Officer,
   Chennai (North),
   Vyasarpadi,
   Chennai - 600 039.

+1cc to the Special Government Pleader(Taxes),S.R.No.40541, 40542,40543,40544

+1cc to the Government Pleader, Sr.40036,40037,40038,40039

W.P.Nos.18215, 18219,
18223 & 18320 of 2006

NR[co]
NSK 14/09/2021