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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-09-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.13437 of 2001
And
WMP No.19752 of 2001

Vishnu Timbers,
Represented by its Managing Partner
Mr.Purushothaman,
No.34, Shandy Road,
Mettupatty,
Dindigul. .. Petitioner

vs.

The Commercial Tax Officer-V,
Dindigul.
.. Respondent

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings Roc.No.176/99/A1 dated 25.06.2001 and quash the same.

For Petitioner : Mr.B.Saravanan

For Respondent : Mr.V.Nanmaran,
Government Advocate.

O R D E R

The writ on hand is filed questioning the assessment order dated 25.06.2001, demanding the petitioner to pay entry tax for the Hydraulic Mobile Crane purchased by the petitioner.

2. The petitioner purchased the said Hydraulic Mobile Crane in Model 10 XT on 07.10.1998 at Ballabgarh in Haryana District and transported the said vehicle to Tamil Nadu.

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3. The contention of the petitioner is that the petitioner-Company is engaged in the Timber business and the said Hydraulic Mobile Crane has been purchased only for the purpose of lifting wooden logs in order to exhibit the condition of the wood to the buyers.

4. The respondent issued show cause notice on 10.11.2000 and the petitioner-Company submitted its objections and thereafter, the impugned order has been passed.

5. Once the vehicle purchased is falling within the definition of Section 2 (28) of the Motor Vehicles Act, then the respondent-Commercial Tax Officer-V is justified in levying entry tax.

6. Though the petitioner states that the Hydraulic Mobile Crane has been purchased only for the purpose of lifting wooden logs in order to exhibit the condition of the wood to the buyers, the fact regarding the nature of vehicle is to be considered for the purpose of imposing entry tax.

7. Once the vehicle is falling within the definition of Section 2(28) of the Motor Vehicles Act, then the petitioner is liable to pay entry tax.

8. Mere usage of the said vehicle is immaterial. Usage may be restricted by the purchaser of the vehicle. However, if the vehicle falls under the definition of Motor Vehicles Act, then entry tax is leviable.

9. The details regarding the nature of vehicle is not made available in the writ petition.

10. The respondent-Commercial Tax Officer-V is also not in a position to provide clear description of the said vehicle on account of efflux of time.

11. This Court is of the considered opinion that the nature of the vehicle with reference to the definition of Section 2(28) of the Motor Vehicles Act, is to be considered by the Authority for the purpose of levying entry tax. In this regard, the matter is to be remitted back.

12. Accordingly, the impugned order passed by the respondent-Commercial Tax Officer-V in proceedings Roc.No.176/99/A1 dated 25.06.2001, is quashed and the matter is remanded back to the respondent-Commercial Tax Officer-V for fresh consideration with reference to the description of the vehicle and accordingly, pass orders on merits and in accordance with law as expeditiously as possible.

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13. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

The Commercial Tax Officer-V,
Dindigul.

+1cc to Mr.B.Saravanan, Advocate Sr No.46069
+1cc to the Special Government Pleader (Taxes) Sr No.47007

WP No 13437 of 2001

CP (CO)
PR (23/09/2021)

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