IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.08.2021

CORAM

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

W.P. Nos. 6472 and 6473 of 2009

Tvl.Alphaa Associates,
Represented by its Power of Attorney Holder,
S.Chandru,
No.A-34, Kovaipudur,
Coimbatore - 641 042. ...Petitioner in both W.Ps'

..vs..

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.

2.The Commercial Tax Officer,
Perur Assessment Circle,
Coimbatore. ...Respondents in both W.Ps'

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the second respondent in Assessment No. Entry Tax 1921137/2003-2004 and Assessment No. Entry Tax Act 90/1921137/2004-2005 dated 22.12.2008 and quash the same as the same being contrary to the principle laid down by this Hon'ble Court in the Judgment reported in (2008) 13 VST 390 (Gandhi (R) vs State of Tamil Nadu) following the law declared by the Hon'ble Supreme Court of India in the Judgment reported in (2006) 145 ST 544 (Jindal Stainless Limited vs State of Haryana).

For Petitioner in both W.Ps' : Mr.R.Senniappan

For Respondents in both W.Ps' : Mr.V.Veluchamy
Government Advocate.

C O M M O N O R D E R

Challenging the order dated 22.12.2008 demanding entry tax with reference to the vehicle purchased by the petitioner, i.e., Dry Bulk Cement Trailers, the Writ Petition is filed.

2. The question which arises is whether the said vehicle is falling under the definition of motor vehicle under Section 2 (28) of the Motor Vehicles Act, 1988 or not.

3. The learned counsel for the petitioner made a submission that the Dry Bulk Cement Trailers are not capable of being run in the public roads and it is mainly used in the cement factory campus itself. Thus, the said trailers cannot be recorded as motor vehicles as defined under Section 2(28) of the Motor Vehicles Act.

4. The facts regarding the nature of vehicle and its usage are not disputed by the respondents. In view of the fact that the vehicle purchased by the petitioner is incapable of driven in a public road and it is used within the cement factory campus, this Court is of an opinion that the levy of entry tax is in proper. The issues in this regard regarding the crane and other similar vehicles which are all incapable of being run on the roads were considered by this Court and exempted from payment of entry tax. This being the facts and circumstances, the impugned order passed by the second respondent in Assessment No. Entry Tax 1921137/2003-2004 and Assessment No. Entry Tax Act 90/1921137/2004-2005 dated 22.12.2008 are quashed and the Writ Petitions stand allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

vji

To

1.The Secretary to Government,
The State of Tamil Nadu,
Commercial Taxes and Registration Department,
Fort St.George, Chennai - 600 009.

2.The Commercial Tax Officer,
Perur Assessment Circle,
Coimbatore.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.43593
+1cc to the Government Pleader, S.R.No.43719

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BP(CO)
RVM(07/10/2021)