IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2021

CORAM:

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

1.W.P.Nos.8970, 10374, 10376 of 2009 and 2410 of 2010
and
M.P.Nos.1+1+1 of 2009 in W.P.Nos.8970, 10374, 10376 of 2009
and M.P.No.1 of 2010 in W.P.No.2410 of 2010

[Items Nos.1, 2, 3 & 5]

W.P.No.8970 of 2009
Mr.S.Mariappan .. Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep.by its Secretary,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
Alawarpet, Chennai.

3.The Regional Transport Officer,
Chennai (South), Chennai.

4. The Motor Vehicle Inspector,
Chennai (South), Chennai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioners imported Toyota Motor Car bearing Chassis No.JZE 119-6019679 to be registered and assign new registration mark by the 3rd and 4th respondents.

W.P.No.10374 of 2009

M.Basheer Mohamed .. Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep.by its Secretary,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
T.Nagar (South), Chennai.

3.The Regional Transport Officer,
Chennai (West), Chennai.

4. The Motor Vehicle Inspector,
Chennai (West), Chennai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioners used Toyota Prado Motor Car bearing Chassis No.JTEBY 29 JXO 0010474 and Engine No.1KZ 1053192 to be registered and assign new registration mark by the 3rd and 4th respondents.

W.P.No.10376 of 2009

Abdul Hameed .. Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep.by its Secretary,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
Saidapet, Chennai.

3.The Regional Transport Officer,
Chennai (West), Chennai.

4. The Motor Vehicle Inspector,
Chennai (West), Chennai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioners imported used Toyota land crusier Motor Car bearing Chassis No.JTEHCO5J604020009 and Engine No.1HD 0249734 to be registered and assign new registration mark by the 3rd and 4th respondents.

W.P.No.2410 of 2010

M/s.S.K.P.Engineering College,
No.17-A, Jagadeeswaran Street,
T.Nagar, Chennai - 600 017. .. Petitioner

..Vs..

1.The State of Tamil Nadu,
Rep.by its Secretary,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

2. The Assistant Commissioner (CT),
T.Nagar Assessment Circle, Chennai.

3.The Regional Transport Officer,
Chennai (West), Chennai.

4. The Motor Vehicle Inspector,
Chennai (West), Chennai. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioners used Toyota land cruiser Motor Vehicle bearing Chassis No. JTEHC05J704022058 and Engine No.1HD0256479 to be registered and assign new registration mark by the 3rd and 4th respondents

For Petitioner in all WPs.	:	Mr.V.Santharam for M/s.B.Satish Sundar
For Respondents in all WPs.	:	Mr.V.Veluchamy Government Advocate

COMMON ORDER

All these Writ Petitions are filed to forbear the respondents from demanding and collecting entry tax on the vehicles purchased by the petitioners. The respective vehicles purchased by the petitioners in all these Writ Petitions were imported from other countries. They have contended that import duty to the Customs Department had already been paid. While taking the vehicle for registration, the Regional Transport Officers concerned, demanded entry tax and thus, the petitioners are constrained to move the present Writ Petitions.

2. The validity of provisions of the Entry Tax Act was challenged under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 and the issue went up to the Hon'ble Supreme Court of India and the validity of the Act was upheld by the Courts.

3. The Hon'ble Supreme Court in clear terms held that the State is empowered to demand and collect Entry Tax in the case of State of Kerala and others vs. Fr.William Fernandez reported in [2018] 57 GSTR 6 (SC). Thus, the issue raised in these Writ Petitions are no more res-integra and the petitioners are liable to pay Entry tax as demanded by the respondents. In some cases, interim orders were granted on condition to pay part amount of entry tax and in some cases, interim orders are granted without any such conditions. Therefore, the respondent/Commercial Tax Department, is duty bound to calculate the arrears of Entry tax to be paid by the respective petitioners and calculation sheet / demand notice is to be issued enabling such petitioners to pay the Entry Tax.

4. It is brought to the notice of this Court that even in respect of the writ petitions already dismissed by this Court, based on the judgment of the Hon'ble Supreme Court, the Commercial Tax Department issued a circular No. 20/2021 dated 01.09.2021. As per the circular, all the Assessing Officers are instructed to collect the outstanding Entry Tax in respect of the dismissed cases, immediately. The Joint Commissioner concerned are directed to monitor the work of collection of Entry Tax and send the compliance report in respect of their Division by 10^{th} of every month. In respect of cases, where the Entry tax is not realisable, the Joint Commissioner concerned should explore all possible legal ways to realise the Government dues and report compliance. The instructions issued are directed to be followed scrupulously.

5. Mr.V.S.Velavan, State Tax Officer / Investigation Wing, made a submission that pursuant to the consistent orders of this Court in the matter of recovery of Entry Tax, the department could able to collect more than a sum of Rs.5 Crores, as of now. However, in respect of the Writ Petitions already dismissed, the Entry tax dues are yet to be collected by the Department. Pursuant to the circular issued by the Commissioner, actions are taken to collect the arrears. This Court is of the considered opinion that a little effort in dealing with Entry tax issue, an amount more than Rs.5 Crores is collected in a short span of time. If the department is consistent in pursuing the collection of tax, then undoubtedly, the State will be in a position to collect substantial revenue dues in the interest of public at large. The efficiency level in the Department are to be improved only by consistent monitoring and functioning of the Executives.

Consistent actions in the matter of collection of tax is of paramount importance. It is the duty mandated under the provisions of the Act and the failure amounts to dereliction of duty. Thus, the Executives are duty bound to ensure that the collections are made and disputes are to be pursued and settled at the earliest possible, in order to honor the Constitutional principles.

6. As far as the Writ petitions on hand are concerned, the petitioners had imported various kinds of vehicles from different Countries and they are liable to pay the Entry Tax under the provisions of the Act and, therefore, swift action is required as several years lapsed and already Revenue suffered loss for many years. Thus, any further delay would cause prejudice to the interest of the Revenue.

7. In view of the facts and circumstances, the following orders are passed:

(i) The respondents/Commercial Tax Department Officials are directed to issue calculation sheets/demand notices to all the petitioners and serve the same to the petitioners within a period of one week from the date of receipt of a copy of this order. On receipt of such notices, the petitioners are directed to pay the arrears of Entry Tax dues within a period of one week from the date of receipt of the notice from the Department.

(ii) In the event of failure on the part of the petitioners in settling the Entry Tax dues, then the respondents are directed to initiate immediate action for recovery of revenue dues by following the procedures as contemplated under the statute.

8. With these directions, all the Writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

9. Post the matter on 04.10.2021, for 'Reporting Compliance'.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pns/ars

To

1.The Secretary,
State of Tamil Nadu,
Home (Transport) Department,
Fort St. George, Chennai - 600 009.

2.The Commercial Tax Officer,
Alwarpet, Chennai.

3.The Regional Transport Officer,
Chennai (South), Chennai.

4.The Motor Vehicle Inspector,
Chennai (South), Chennai.

5.The Commercial Tax Officer,
T.Nagar (South), Chennai.

6.The Regional Transport Officer,
Chennai (West), Chennai.

7.The Motor Vehicle Inspector,
Chennai (West), Chennai.

8.The Commercial Tax Officer,
Saidapet, Chennai.

9.The Assistant Commissioner (CT),
T.Nagar Assessment Circle, Chennai.

Copy to:

The Section Officer,
Writ Section,
High Court,
Madras-104.

+1cc to Special Government Pleader (Taxes) Sr No.47636

W.P.Nos.8970, 10374, 10376 of 2009
and 2410 of 2010

KSM (CO)
PR (21/09/2021)