IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP Nos. 191 to 196 of 2013

APA HOTELS PVT LTD.,
Represented by its
Group Finance Controller,
Mr.S.Prabakaran,
115, Thyagarayar Road,
T.Nagar,
Chennai-600 017. .. Petitioner in all Wps

vs.

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

2. The Assistant Commissioner (CT),
   T.Nagar – South Assessment Circle,
   Chennai-17.

3. The Regional Transport Officer,
   K.K.Nagar West,
   Chennai-600 078.

4. The Motor Vehicle Inspector,
   K.K.Nagar West,
   Chennai-600 078. .. Respondents in all Wps

WP 191 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Corolla Altis D-40J Aero Motor Vehicle bearing Chassis No.MBJ54NEE004013209 0912 and Engine No.IND 1288378, to be registered and assign new registration mark by the third and fourth respondents.

WP 192 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of

Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Corolla Altis D-40J Aero Motor Vehicle bearing Chassis No.MBJ53NEE004013205 0912 and Engine No.IND 1287540, to be registered and assign new registration mark by the third and fourth respondents.

WP 193 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Corolla Altis D-40J Aero Motor Vehicle bearing Chassis No.MBJ53NEE004013219 0912 and Engine No.IND 1288543, to be registered and assign new registration mark by the third and fourth respondents.

WP 194 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Corolla Altis D-40J Aero Motor Vehicle bearing Chassis No.MBJ53NEE004013222 0912 and Engine No.IND 1288756, to be registered and assign new registration mark by the third and fourth respondents.

WP 195 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Etios VD Motor Vehicle bearing Chassis No.MBJB49BT300047105 1212 and Engine No.IND 1299436, to be registered and assign new registration mark by the third and fourth respondents.

WP 196 of 2013 is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Etios VD Motor Vehicle Vehicle bearing Chassis No.MBJB49BT600047146 1212 and Engine No.IND 1299604, to be registered and assign new registration mark by the third and fourth respondents.

For Petitioner in all Wps	:	Mr.B.Satish Sundar for Mr.R.Srinivasalu.
For Respondents in all WPs	:	Mr.V.Veluchamy, Government Advocate.

COMMON ORDER

The relief sought for in these writ petitions to forbear the respondents and their subordinates from demanding or collecting entry tax on the petitioner's new Toyota Corolla Altis D-40J Aero and Toyota Etios VD Motor Vehicles bearing Chassis Nos.MBJ53NEE004013222 0912, MBJ53NEE004013205 0912, MBJ53NEE004013219 0912, MBJ53NEE004013222 0912, MBJB49BT300047105 1212 and MBJB49BT600047146 1212 and Engine Nos.IND 1288756, 1287540, 1288543, 1288756, 1299436 and 1299604 to be registered and assign new registration mark by the third and fourth respondents.

2. In respect of the relief sought for by the petitioner regarding the entry tax, the Hon'ble Division Bench of this Court in the case of V.Krishnamurthy vs. Secretary to Government [2019 (4) CTC 20], and the said order of the Hon'ble Division Bench was passed based on the judgment of the Hon'ble Supreme Court of India in the case of State of Kerala and Others vs. Fr. William Fernandez and Others [(2017) 12 Scale 463].

3. The Hon'ble Division Bench of this Court in the case of V.Krishnamurthy vs. Secretary to Government [2019 (4) CTC 20] in paragraphs 75 and 76 observed as under:-

> “75. At the first instance, we need to point out that 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. That apart, facts of the case in which Government granted administrative waiver subject to conditions vide G.O.Ms.No.157 dated 22.04.1996 was entirely different and cannot be applied to the present cases, which arise out of a different enactment, the purport and intent being totally different. First of the decision was in the year 1999 holding that entry tax is leviable on import of vehicles. Another learned single Bench took a different view but did not distinguish the earlier decision, but chose to follow the decision of the Division Bench of the Kerala High Court in Fr.William Fernandez. In the third decision, there has been a reference because in the third decision, the first decision was noted. However, we need not labour much to make a further probe on this issue because the decision of the Division

Bench of the Kerala High Court in Fr.William Fernandez has been reversed by the Hon'ble Supreme Court and the matters have attained finality. It is not in dispute that the petitioner in W.P.No.33525 of 2007 is still in possession and ownership of the vehicle imported by them. The law on the subject as decided by this Court as early as 01.09.1999 holds that the entry tax is leviable on imported vehicles. Therefore, we do not find any merits in the submissions that the matter should be relegated to the Government for grant of administrative waiver.

76. For all the above reasons, the writ petitions are dismissed and it is held that the petitioners are liable to pay entry tax on imported vehicles brought into the State of Tamil Nadu for use or for sale. Insofar as the miscellaneous petitions filed by the petitioners raising additional grounds are concerned, the learned Senior Counsel has not advanced any arguments, but their argument was only on the ground of administrative waiver in the light of the decision taken by us in the preceding paragraphs. Hence, there is no necessity to consider the additional grounds raised in the miscellaneous petitions. Accordingly, the same stands closed. No costs."

4. In view of the judgment of the Hon'ble Supreme Court of India in the case of State of Kerala and Others vs. Fr. William Fernandez and Others [(2017) 12 Scale 463] and the judgment of the Hon'ble Division Bench of this Court in the case of V.Krishnamurthy vs. Secretary to Government [2019 (4) CTC 20], the relief, as such, sought for in these writ petitions deserves no merit consideration and accordingly, the writ petitions stand dismissed. However, there shall be no order as to costs. The writ petitioner is bound to pay the entry tax as demanded by the respondents, within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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

2. The Assistant Commissioner (CT),
   T.Nagar – South Assessment Circle,
   Chennai-17.

3. The Regional Transport Officer,
   K.K.Nagar West,
   Chennai-600 078.

4. The Motor Vehicle Inspector,
   K.K.Nagar West,
   Chennai-600 078.

+1cc to the Special Government Pleader (Taxes), S.R.No.36174
+1cc to the Government Pleader, S.R.No.36238

WP Nos.191 to 196 of 2013

GPL(CO)
HS(23/08/2021)