IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.14765 of 2016
And
WMP Nos.12895 and 12896 of 2016

Shree Ambika Sugars Limited,
(Represented by Executive Director,
G.Rajagopal),
'Eldorado' - 5th Floor,
112, Nungambakkam High Road,
Chennai-600 034. .. Petitioner

vs.

1. Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
No.88, Mayor Ramanathan Road,
Chennai-600 031.

2. Regional Transport Officer,
Chidambaram,
Cuddalore District.

3. Motor Vehicle Inspector Gr.I,
Unit Office,
Virudhachalam-606 001.

4. Mr.Anurag Goel, having
Reg.No.(IBBI/IPA-001/IP-P00876/2017-2018/
11460), 10/349. 1st Floor, Sunder Vihar,
Paschim Vihar,
New Delhi-110 087.

(R-4 suo motu impleaded vide order of Court
dated 22.07.2020 made in WP 14765/2016) .. Respondents

This 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 on the files of the first respondent herein in TIN 33190460834/2015-16 A4, dated 22.03.2016, quashing the same as illegal and contrary to Section

3 read with Section 2(d), 2(g) and 2(k) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

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|---|---|---|
| For Petitioner | : | Mr.R.Sivaraman |
| For Respondents-1to3 | : | Mr.V.Veluchamy, Government Advocate. |
| For Respondent-4 | : | Not Ready in Notice. |

O R D E R

The relief sought for in the present writ petition is to calling for the records on the files of the first respondent herein in TIN 33190460834/2015-16 A4, dated 22.03.2016, quashing the same as illegal and contrary to Section 3 read with Section 2(d), 2(g) and 2(k) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

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 the present writ petition deserves no merit consideration and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed. 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

//True Copy//

Sub Assistant Registrar

Svn

To

1. Assistant Commissioner (CT),
   Nungambakkam Assessment Circle,
   No.88, Mayor Ramanathan Road,
   Chennai-600 031.

2. Regional Transport Officer,
   Chidambaram,
   Cuddalore District.

3. Motor Vehicle Inspector Gr.I,
   Unit Office,
   Virudhachalam-606 001.

+1cc to the Special Government Pleader(Taxes), S.R.No.36172

WP No.14765 of 2016

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