IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-09-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.34197 of 2005

M/s.Sree Senniappa Gounder and Sons,
No.36, Selva Nilayam,
Sradha Nagar,
B.K.Pudur,
Kuniyamuthur,
Coimbatore. ..Petitioner

vs.

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

2. The Deputy Commercial Tax Officer,
   Office of the Commercial Tax Officer,
   Peelamedu South Circle. ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration to declare that the levy of entry tax Item No.15 of the Entry Tax Act, 2001 on lubricating oil purchased by the petitioner from outside the State of Tamil Nadu is illegal and violative of the Constitution of India.

For Petitioner : Mr.N.Muralikumaran for M/s.McGan Law Firm

For Respondents : Mr.V.Veluchamy, Government Advocate.

O R D E R

The writ on hand is filed to declare that the levy of Entry Tax Item No.15 of the Entry Tax Act, 2001 on lubricating oil purchased by the petitioner from outside the State of Tamil Nadu is illegal and violative of the Constitution of India.

2. The petitioner-Company states that they purchased lubricant oil from outside the State of Tamil Nadu, which was used in the manufacturing process. As per the provisions of the Tamil Nadu Tax on Entry of Goods (Local Areas) Act, 2001 [hereinafter referred to as the 'Act', in short], the Government has given liberty to fix the rate of tax at an highest ceiling of 30% under Section 3 of the Act for the goods mentioned in the Schedule.

3. The petitioner-Company raises certain grounds with reference to the provisions of the said Act, however, perusal of the documents filed along with the present writ petition would reveal that the issue stands at the stage of notice dated 12.07.2005. As far as the petitioner is concerned, 16 years have lapsed and there are many changes. Under these circumstances, the High Court cannot adjudicate such disputed facts in the present writ petition.

4. Contrarily, it is preferable to provide an opportunity to the petitioner-Company to put forth their case before the Authorities in response to the notice dated 12.07.2005 and based on such explanations/objections, if any, filed, the Authorities Competent has to take a decision in accordance with law.

5. This being the facts and circumstances, in response to the notice dated 12.07.2005, the petitioner-Company is at liberty to submit their objections/documentary evidences, if any, to the respondents, within a period of four weeks from the date of receipt of a copy of this order and in the event of filing any such documentary evidences/objections, if any by the petitioner-Company, the respondents shall consider the same and pass appropriate orders on merits and in accordance with law and by following the procedures as contemplated.

6. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn

To

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

2. The Deputy Commercial Tax Officer,
   Office of the Commercial Tax Officer,
   Peelamedu South Circle.

+1CC to M/s.McGan Law Firm, Advocate, Sr.No.45774
+1CC to Special Government Pleader (Taxes), Sr.No.46232

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KSM (CO)
K.RK. (21.09.2021)