IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.09.2021

CORAM:

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

WP No.798 of 2010
and M.P. No.1 of 2010

Sri AVR,
Rep. By its Managing Partner,
K.Asok Kumar,
No.16/1/439, Dharmapuri Main Road,
Raja Theatre Building,
Chamrajpet P.O. Mecheri,
Mettur, T.K.Salem District. ..Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By the Secretary to Government
Commercial Taxes & Religious Endowments
Department,
Fort St. George, Chennai.

2. The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur.

3. The Registering Authority,
Regional Transport Officer,
Mettur Unit Office at Sankari. .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 3rd respondent to register under the Motor Vehicles Act the vehicle CAT 424 B Backhoe Loader bearing Engine No.S44004021 and chassis No.IALC 0362 F without insisting upon production of No Objection Certificate from the 1st and 2nd respondents department in relating to payment of entry tax.

For Petitioner : Mr.R.Senniappan

For Respondents: Mr.V.Veluchamy
Government Advocate

O R D E R

The relief sought for in the writ petition is to direct the 3rd respondent to register under the Motor Vehicles Act the vehicle CAT 424 B Backhoe Loader bearing Engine No.S44004021 and chassis No.IALC 0362 F, without insisting upon the production of 'No Objection Certificate', from the 1st and 2nd respondents/Department in relation to the payment of the entry tax.

2. The petitioner states that he purchased CAT 424 B Backhoe Loader bearing Engine No.S44004021 and chassis No.IALC 0362 F, from Gmmco Limited at Bangalore and the 3rd respondent insisted to get 'No Objection Certificate' from the 2nd respondent for registering the vehicle and the 2nd respondent has insisted the petitioner to pay the Entry Tax on the vehicle as per the notice dated 30.10.2009.

3. The learned counsel for the petitioner states that the vehicle purchased by the petitioner is not falling under the definition of Section 2(28) of the Motor Vehicles Act. The vehicle purchased is not utilised for the road usage and therefore, Road Tax cannot be imposed and thus the Entry Tax demand notice issued is in violation of the provisions of the Entry Tax Act.

4. This being the ground raised, the 2nd respondent is bound to ascertain through the Regional Transport Office, whether the vehicle purchased by the petitioner is falling under the definition of a 'Motor Vehicle' within the provisions of the Motor Vehicles Act or not. If it is not falling under the definition of 'Motor Vehicle', then no registration may be required. In order to adjudicate all these facts and circumstances, the petitioner must be given a liberty to approach the 2nd respondent to resolve the issues. The disputed facts in this regard cannot be adjudicated by the High Court under Article 226 of the Constitution of India.

5. In view of the above facts and circumstances, the petitioner is at liberty to submit a representation containing all the details of the vehicle, along with the documents, evidences etc., within a period of four weeks from the date of receipt of a copy of this order, to the 2nd respondent. On receipt of any such representation, along with all requisite documents from the petitioner, the 2nd respondent is directed to conduct an enquiry and take a decision and pass orders on merits and in accordance with law, within a period of eight weeks, thereafter.

6. With these directions, the writ petition stands disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
Commercial Taxes & Religious Endowments Department,
Fort St. George, Chennai.

2. The Assistant Commissioner (CT),
Omalur Assessment Circle, Omalur.

3. The Registering Authority,
Regional Transport Officer,
Mettur Unit Office at Sankari.

+1 CC to The Special Government Pleader sr 47638.

WP No.798 of 2010

MG(CO)
SP(18/10/2021)