IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.40081 & 40082 of 2005

Babu K.Verghese ..Petitioner in both W.Ps

Vs.

1.The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Chennai - 600 090

2.The State of Tamil Nadu,
represented by the
Secretary to Government,
Department of Commercial Taxes
and Religious Endowments,
Fort St.George,
Chennai - 600 009. ..Respondents in both W.Ps

Prayer in W.P.No.40081 of 2005 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the First respondent herein to restore to the petitioner, the entire sum of Rs.6,94,290/- collected from him under Pay Order No.027862 dated 18.05.2005, for Rs.3,40,000/- on Standard Chartered Bank, 1, Haddows Road, Chennai - 600 006, Pay Order No.392976 dated 19.05.2005, for Rs.2,00,000/- on Indian Bank, Neelankarai, Chennai - 600 041 and Pay Order No.040891 dated 18.05.2005, for Rs.1,54,290/- on Bank of India, Guindy, Chennai - 600 032, in respect of the import of the Car BMW 530D RHD (Engine No.39955867 and Chassis No.WBANC 72030 8339596) cleared under Bill of Entry No.802401 dated 10.05.2005.

Prayer in W.P.No.40082 of 2005 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the provisions of Sections 2(g), 2 (d) and 2(k) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 are inoperative in so far as import into the country being ultra vires Serial No.83 of List I of the Seventh Schedule to the Constitution of India in so far as concerning the importation of the motor vehicle by the petitioner.

For Petitioner : Mr.N.Inbarajan
[in both W.Ps]

For Respondents : Mr.R.Swarnavel
Government Advocate[Taxes]
[in both W.Ps]

COMMON ORDER

The learned counsel for the petitioner as well as the learned Government Advocate appearing on behalf of the respondents made a submission that the issues raised in the present writ petitions were already decided by this Court and accordingly, the petitioner is liable to pay entry tax in full. In this regard, the order dated 13.06.2019 passed in W.P.No.3997 of 2011 is referred and the same reads as under:

> "The proposition of entry tax leviable on vehicles imported from abroad was subject to challenge in various writ petitions and has ultimately been upheld by the Hon'ble Supreme Court of India. Following the proposition, a Division Bench of this Court in a batch of writ petitions in W.P.No.32710 of 2005, etc., dated 29.01.2019, had also dismissed the Writ petitions holding that the importers are liable to pay entry tax on the vehicles imported from abroad and brought into the State of Tamil Nadu for use or for sale.
>
> 2. In view of the same, the prayer sought for in the present writ petition cannot be considered. Hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed."

2. In view of the fact that the issues were already decided and the liability of the petitioner stands confirmed, no further adjudication is required and accordingly, both the writ petitions stand dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1.The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
Chennai - 600 090

2.The Secretary to Government,
Department of Commercial Taxes
and Religious Endowments,
Fort St.George, Chennai - 600 009.

+1cc to Mr.N.Inbarajan, Advocate, SR.No.22049
+1cc to Government Pleader(Taxes), SR.No.22606

W.P.Nos.40081 & 40082 of 2005

GPL(CO)
NS(04/05/2021)