



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30<sup>th</sup> DAY OF APRIL 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

C.S.No.682 of 2015

M/s.Hyundai Motor India Limited,  
rep. By its Authorized Signatory,  
Mr.M.Sagadevan, Assistant General  
Manager – Legal & Secretarial,  
South Regional Office at Hyundai Motor Plaza,  
NP 54, Developed Plot,  
Thiru-Vi-Ka Industrial Estate,  
Ekkaduthangal, Guindy, Chennai – 600 032.

...Plaintiff

Vs.

1.M/s.Suhrit Services Private Limited.,  
S-19, Gulmohar Community Centre,  
Yusuf Sarai, New Delhi – 110 046.

2.The Deputy Commissioner  
(Commercial Taxes) – IV,  
Large Tax Payer Unit,  
Durga Tower, 5<sup>th</sup> Floor, Egmore,  
Chennai – 600008.

...Defendants

Civil Suit praying that this Hon'ble Court may be pleased to pass a  
judgement and decree against the 1<sup>st</sup> defendant directing:-

a) To pay to the plaintiff the sum of Rs.14,10,50,380/- (Rupees

Fourteen Crores Ten Lakhs Fifty Thousand Three Hundred and Eighty

only)

<https://hcservices.ecourts.gov.in/hcservices/>

b) To pay the plaintiff an interest @ 18 % of subsequent interest



on Rs.14,10,50,380/- (Rupees Fourteen Crores Ten Lakhs Fifty Thousand Three Hundred and Eighty only) from the date of plaint till the date of realization of the amount.

b) To pay the plaintiff the costs of the suit.

This suit coming on this day before this Court for hearing in the presence of Mr.A.R.Karunakaran, Advocate for the plaintiff herein and the defendants herein, not appearing in person or by advocate and upon reading the plaint filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and this Court having observed that the 1<sup>st</sup> defendant is liable to compensate the plaintiff for the additional tax paid by the plaintiff,

**it is ordered and decreed as follows:-**

That the 1<sup>st</sup> defendant herein, do pay to the plaintiff herein, a sum of Rs.28,75,24,436/- (Rupees Twenty Eight Crores Seventy Five Lakhs Twenty Four Thousand Four Hundred and Thirty Six only) with further interest at the rate of 18% per annum on the sum of Rs.14,10,50,380/- (Rupees Fourteen Crores Ten Lakhs Fifty Thousand Three Hundred and Eighty only) from this date till the date of realization.

2. That the 1<sup>st</sup> defendant herein, do pay to the plaintiff herein, the



cots of this suit as and when taxed by the taxing officer of this court, and  
noted in the margin thereof.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,  
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE  
30<sup>th</sup> DAY OF APRIL 2021.

Sd./-  
ASSISTANT REGISTRAR (O.S-I)

//Certified to be true copy//  
Dated at Madras this the       day of       2021.

COURT OFFICER(O.S.)  
From 25th Day of September 2008 the Registry is issuing certified copies  
of the Orders/Judgments/Decrees in this format.



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01.06.2021

C.S.No.682 of 2015

DECREE:

DATED : 30.04.2021

THE HON'BLE MR. JUSTICE  
R.SUBRAMANIAN

FOR APPROVAL: 9.7.2021

APPROVED ON: 14.7.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**C.S.No.682 of 2015**

M/s.Hyundai Motor India Limited,  
rep. By its Authorized Signatory,  
Mr.M.Sagadevan, Assistang General  
Manager – Legal & Secretarial,  
South Regional Office at Hyundai Motor Plaza,  
NP 54, Developed Plot,  
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2.The Deputy Commissioner  
(Commercial Taxes) – IV,  
Large Tax Payer Unit,  
Durga Tower, 5<sup>th</sup> Floor, Egmore,  
Chennai – 600008.

...Defendants

Prayer: Plaintiff filed under Order IV Rule (1) of the Original Side rules r/w Order VII Rule 1 and 2 of C.P.C., praying to direct the plaintiff the sum of Rs.14,10,50,380/- (Rupees fourteen crores ten lakhs fifty thousand three hundred and eighty only), to pay the plaintiff an interest @ 18 % of subsequent interest on Rs.14,10,50,380/- (Rupees fourteen crores ten lakhs fifty thousand three hundred and eighty only) from the date of plaint till the date of realization of the amount, to pay the plaintiff the costs of the suit.



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For Plaintiff : Mr.A.R.Karunakaran

For Defendants : No Appearance

### **J U D G M E N T**

This suit has been filed for recovery of a sum of Rs.14,10,50,380/- being the excess tax amount paid by the plaintiff due to the failure of the defendant in furnishing 'C' forms.

2.The plaintiff is a leading car manufacturer and the 1<sup>st</sup> defendant was appointed as a dealer of the plaintiff. As per Section 8(1) of the Central Sales Act, the rate of sales tax / VAT for the Cars and their spare parts in the course of Inter-State Trade or Commerce in respect of sales made to registered dealers of other states is 2%. The said concessional rate of 2% is applicable to inter-state or commerce only if the selling dealer furnishes particulars of sale to the prescribed authority in a particular manner in a particular form, which is generally called as 'C' form within the prescribed time. If the 'C' forms are not furnished within the prescribed time, the sales made even to a registered dealer will also be deemed as a sale made to an unregistered dealer or a Local Sales and the highest rate of tax will be imposed according to the Local Sales Tax Act, wherein the tax rate



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3.As per the memorandum of understanding dated 18.07.1996 and 22.01.2008 between the plaintiff and the Government of Tamil Nadu, the plaintiff was given a concessional rate of tax at 1% instead of 2%. Pursuant to the memorandum of understanding, the Government Orders have been issued in G.OMs.225 dated 29.09.1998 and G.O.Ms.No.101 dated 23.04.2008.

4.As per the Central Sales Tax Act and Rules, the purchasing dealer is obliged to obtain form 'C' from the local sales tax office and submit the same to selling dealer to enable them to file the same to the local sales tax authorities within the stipulated time. The plaintiff would claim that the 1<sup>st</sup> defendant, who was appointed as a dealer of the plaintiff under a letter of intent dated 11.04.2003 failed to furnish 'C' forms as required under the Act and therefore, the plaintiff was compelled to pay the suit claim as additional sales tax. The differential sales tax comes to Rs.14,10,50,380/-.

5.According to the plaintiff, the liability for payment of excess sales tax arose due to the failure on the part of the defendant to furnish 'C' forms with the stipulated time and therefore, the 1<sup>st</sup> defendant is liable to pay dues. On the strength of the above pleadings, the plaintiff had sought



for a decree for recovery of the said sum of Rs.14,10,50,380/- along with interest at 18% per annum on the said sum from the date of plaint till date of realization.

6.Despite service, the defendants have not chosen to enter appearance to defend the suit. The plaintiff has let in evidence and one Mr.M.Sagadevan, Deputy General Manager (Legal & Secretarial) and the plaintiff has examined as P.W.1. He has filed his proof affidavit and has also produced Exs.P1 to P19. The evidence on record clearly demonstrates that the additional liability for a payment of sales tax arose solely on the ground of the failure of the 1<sup>st</sup> defendant to produce 'C' forms within the stipulated time. Therefore, the 1<sup>st</sup> defendant is liable to compensate the plaintiff for the additional tax paid by the plaintiff.

7.Hence, the suit is decreed as prayed for with costs.

Sd./- R.S.M.J  
30.04.2021

**List of witness marked on the side of the plaintiff:**

P.W.1 – M.Sagadevan

**List of documents marked on the side of the plaintiff:**

| <i>S.No</i> | <i>Exhibits.<br/>No</i> | <i>Documents marked</i>                                                           |
|-------------|-------------------------|-----------------------------------------------------------------------------------|
| 1           | Ex.P1                   | The original board resolution authorising Mr.M.Sagadevan.                         |
| 2           | Ex.P2                   | The photo copy of letter of intent issued by the plaintiff to the 1 <sup>st</sup> |



| <b>S.No</b> | <b>Exhibits.<br/>No</b> | <b>Documents marked</b>                                                                                                                                                                                                               |
|-------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |                         | defendant.                                                                                                                                                                                                                            |
| 3           | Ex.P3                   | The photo copy of annual return in form No.1 for the financial year 2007 to 2008 of the petitioner with respect to interstate sales.                                                                                                  |
| 4           | Ex.P4                   | The photo copy of annual return summary of form No.10 for the financial year 2007-2008 along with list of invoice numbers and value of sales made to the 1 <sup>st</sup> defendant by the plaintiff for the financial year 2007-2008. |
| 5           | Ex.P5                   | The original annual return in form No.1 for the financial year 2009 to 2009 of the petitioner with respect to interstate sales.                                                                                                       |
| 6           | Ex.P6                   | The photo copy of annual return summary of form No.10 for the financial year 2008-2009 along with list of invoice numbers and value of sales made to the 1 <sup>st</sup> defendant by the plaintiff for the financial year 2008-2009. |
| 7           | Ex.P7                   | The photo copy of the letter with reference number 723823 of 2007-08 sent by the Deputy Commissioner (CT), Enforcement (North) with respect to CST Assessment for the financial year 2007-08.                                         |
| 8           | Ex.P8                   | The original letter with reference number 723823 of 2008-09 sent by the Deputy Commissioner (CT), Enforcement (North) with respect to CST Assessment for the financial year 2008-09.                                                  |
| 9           | Ex.P9                   | The photo copy of the reply filed by the plaintiff for the letter with reference Number 723823 of 2007-08.                                                                                                                            |
| 10          | Ex.P10                  | The original reply filed by the plaintiff for the letter with reference number 723823 of 2008-09.                                                                                                                                     |
| 11          | Ex.P11                  | The photo copy of the order passed by the Deputy Commissioner (CT), Enforcement (North) for the financial year 2007-08 for a demand of Rs.11,37,27,231/-.                                                                             |
| 12          | Ex.P12                  | The original order passed by the Deputy Commissioner (CT), Enforcement (North) for the financial year 2008-09 for a demand of Rs.3,98,59,871/-/                                                                                       |
| 13          | Ex.P13                  | The photo copy of the plaintiff's reply to assessment order dated 15.03.2014, Assessment year 2007-08, informing the payment plan under protest.                                                                                      |
| 14          | Ex.P14                  | The original plaintiff's reply to assessment order dated 15.03.2014, Assessment year 2008-09, informing the payment plan under protest.                                                                                               |
| 15          | Ex.P15                  | The photo copy of Notice sent by the Deputy Commissioner (CT) -IV, Large tax payer unit for the demand of Rs.22,95,11,731/- for the financial years 2006-07 to 2010-11.                                                               |
| 16          | Ex.P16                  | The photo copy of the plaintiff letter to the Deputy Commissioner                                                                                                                                                                     |



| <i>S.No</i> | <i>Exihibits. No</i> | <i>Documents marked</i>                                                                                                                                                              |
|-------------|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |                      | (CT) – IV, Large Tax payer unit for the payment of the demand under protest.                                                                                                         |
| 17          | Ex.P17               | The photo copy of the plaintiff letter to the Deputy Commissioner (CT) – IV, Large tax payer unit for the payment of the demand amount for the financial year 2007-08 under protest. |
| 18          | Ex.P18               | The original plaintiff letter to the Deputy Commissioner (CT) IV, Large tax payer unit for the payment of the demand amount for the financial year 2008-09 under protest.            |
| 19          | Ex.P19               | The original legal notice issued to the defendants.                                                                                                                                  |

**List of witness and documents filed on the side of the defendants:**

Nil

Sd./- R.S.M.J  
30.04.2021

//Certified to be true copy//

Dated at Madras this the      day of      2021.

COURT OFFICER(O.S.)

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