IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.15535 to 15539 of 2014
and
M.P.Nos.1 to 1 of 2012

Mahindra & Mahindra Limited,
Represented by Shri R K Siram, Manager CI & S Accounts-Admn.,
Mahindra Towers, 1st Floor,
No.17/18, Patullos Road,
Chennai – 600 002. .. Petitioner (in all W.Ps)

Vs.

The Deputy Commissioner (C.T.)-II, Large Tax Payers Unit,
5th Floor, Dugar Towers,
No.34, Marshall Road,
Chennai – 600 008. .. Respondent (in all W.Ps)

Common Prayer:

Writ Petitions filed under Article 226 of the Constitution of India, to issue Writ of Certiorari calling for the records in TIN/33510640011/2006-07 CST 32911, TIN/33510640011/2007-08 CST 32911, TIN/33510640011/2008-09 CST 32911, TIN/33510640011/2009-10 CST 32911 & TIN/33510640011/2010-11 CST 32911 dated 14.05.2014 passed by the Respondent and quash the same.

(In all the cases):
For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.V.Nanmaran
Government Advocate

COMMON ORDER

The Revision of Assessment Orders passed by the respondent under Section 8/9 of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 are under challenge in the present Writ Petitions.

2.The petitioner is a dealer in Motor Vehicles in the State of Tamil Nadu. Further, the petitioner is having manufacturing facility for various motor vehicles in the State of Maharashtra. The facts in general are not in dispute. The learned counsel for the petitioner made a submission that the orders impugned were issued in violation of the principles of natural justice as the petitioner was not provided with an opportunity of personal hearing and argue their case orally. In fact, the petitioner's had not been provided with an opportunity even to file the relevant documents as well as the judgments.

3.The learned counsel for the petitioner further contended that at the time of passing the impugned orders, the Special Leave Petition filed by the State against the judgment of this Hon'ble High Court rendered in the case of Kivaraj Motors Limited Vs. Assistant Commissioner (CT), Fast Track Assessment Circle, Chennai, in W.A.No.3201 to 3204/2004 dated 04.02.2010 was pending. However, during the pendency of the present Writ Petitions, the said Civil Appeals filed by the Revenue were dismissed by the Hon'ble Apex Court on 30.03.2017 and further, Review filed was also dismissed on 18.09.2018. Therefore, the petitioner is entitled for the relief and the merits have to be reconsidered.

4.This Court is of the considered opinion that even in the impugned orders, the respondent have recorded the fact that the State has filed a Special Leave Petition before the Hon'ble Apex Court. Hence, the judgment of this Hon'ble High Court rendered in the cited cases, the proposal for levy of entry tax is kept pending till the outcome of the Special Leave Petition. However, the said Special Leave Petitions were converted as Civil Appeals and the Hon'ble Apex Court dismissed all the Civil Appeals on 30.03.2017 and Review filed was also dismissed on 18.09.2018.

5.This being the factum, this Court is of the opinion that the matters are to be remanded back to the respondent for reconsideration in the light of the orders passed by the Hon'ble Apex Court and by providing an opportunity to the Writ Petitioner to defend their cases. Accordingly, the impugned orders passed by the respondent in TIN/33510640011/2006-07 CST 32911, TIN/33510640011/2007-08 CST 32911, TIN/33510640011/2008-09 CST 32911, TIN/33510640011/2009-10 CST 32911 & TIN/33510640011/2010-11 CST 32911 dated 14.05.2014 are quashed and the matters are remanded back to the respondent for fresh consideration and the issues are to be decided on merits and in accordance with law by affording opportunity to the Writ Petitioner for personal hearing, if any such representation is made and thereafter, pass orders as expeditiously as possible.

6.With these directions, all these Writ Petitions stand allowed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commissioner (C.T.)-II, Large Tax Payers Unit,
5th Floor, Dugar Towers,
No.34, Marshall Road,
Chennai – 600 008.

+1 cc to Mr.Joseph Prabakar, Advocate SR.No.38978
+1 cc to Special Government Pleader (Taxes)SR.No.39000

W.P.Nos.15535 to 15539 of 2014

GPL(CO)
CT(27/08/2021)