IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. Nos.25813 and 25817 of 2021

Sri Sai Ram Impex,
Represented by its Proprietor, Mrs.Usha,
No.176, Old No.86, Chellappan Street,
Perambur Barraks, Ottery,
Chennai,
Tamil Nadu - 600 012. ...Petitioner in both W.Ps'

-Vs-

1.The Secretary to the Government,
Government of Tamil Nadu,
Fort St.George,
Chennai - 600 009.

2.The Regional Transport Officer,
East Chennai,
Powder Mills Road,
Pulianthoppu,
Chennai - 600 112.

3.The Preventive Officer,
Custom House Chennai,
No.60, Krishna Block, Rajaji Salai,
Chennai - 600 001.

4.The Commercial Tax Officer,
Range IV,
Choolai Assessment Circle,
Saidapet,
Chennai. ...Respondents in both W.Ps'

(R3 and R4 struck off from the array of parties vide order dated 06.12.2021 made in W.P. No. 25813 of 2021 and vide order dated 03.12.2021 made in W.P. No. 25817 of 2021 by RSKJ)

COMMON PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the second respondent to receive the application for registration of the vehicle and further direct the second respondent to register the vehicle without insisting payment of Entry Tax.

For Petitioners in both W.Ps'	:	Ms.R.Pooja Kanmani
For Respondents in both W.Ps'	:	Mrs.R.L.Karthika Government Advocate for R1 and R2 R3 and R4 give up

C O M M O N O R D E R

Since the issue raised in both the Writ Petitions are one and the same, with the consent of the learned counsel appearing for both sides, both the Writ Petitions have been heard together and are disposed of by this common order.

2. That the petitioner had imported the vehicles namely Used Hydraulic Truck Crane as well as All-terrain Crane from a foreign country after paying the necessary customs duty, as the copy of the bill of entry to show that, it has been imported from a foreign country. The petitioner when made an attempt to file an application in Form-20 under Rule 47, i.e., prescribed format under the Motor Vehicles Act and the Rules made thereunder, the second respondent, who is the authority under the Act to receive the application and after processing the same to register the vehicle, according to the petitioner, has refused to receive the same.

3. The reason being according to the second respondent is that, the petitioner should file an application along with necessary documents which must include the proof to show that, the petitioner has paid the entry tax to the State. In this regard, it is the case of the petitioner that, insofar as the payment of entry tax is concerned, that practice is no more available as after the GST Regime has come into play from 01.07.2017, the only tax which is to be paid for these kind of transaction is the GST, which the petitioner having paid has produced the necessary documents to that effect along with the copy of bill of entry as well as the payment of customs duty and since these documents are enough or essential for consideration of the application to be submitted by the petitioner, the refusal made on the part of the second respondent to receive and process the application of the petitioner is unjust and arbitrary. Therefore, the petitioner seeking a mandamus respectively in both the Writ Petitions have filed these Writ Petitions with the aforesaid prayer.

4. Heard Ms.R.Pooja Kanmani, learned counsel appearing for the petitioner who would submit that, the petitioner when made an attempt to file the application prepared in the prescribed format with necessary documents like payment of GST, payment of customs duty as well as the bill of entry, such application was not received by the second respondent demanding the payment of entry tax. Therefore, the learned counsel would submit that, since the question of demanding any entry tax as of now does not arise in view of the GST Regime, such a reason stated for to receive the application of the petitioner is untenable. Hence, the learned counsel appearing for the petitioner seeks indulgence of this Court.

5. However, Mrs.R.L.Karthika, learned Government Advocate appearing for the respondents on instructions would submit that, no such application as claimed by the petitioner has ever been filed before the office of the second respondent. If at all, the petitioner wants to make an application seeking for registration of the vehicles imported from a foreign country, such application should be in prescribed format and it should have been filed with proper procedure along with necessary annexures. In this regard, the learned Government Advocate would further contend that, the second respondent has not demanded any proof with regard to the payment of entry tax, but only with regard to the proof of bill of entry, customs duty as well as GST payment alone normally would be insisted and if those documents are annexed along with an application with which, if the petitioner come forward to make an application, there could be no impediment for the second respondent to receive the same and process in accordance with the procedure established under the Motor Vehicles Act as well as the Rules made thereunder.

6. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. Now the controversy is simple, where the petitioner is ready with the application in prescribed format along with the proof to show that, the customs duty and the GST have been paid for the import of the vehicles from a foreign country and also the copy of the bill of entry is available with the petitioner, with these documents since the petitioner is ready and willing to make an application to the second respondent, this Court feels that, there could be no further impediment for the second respondent to receive the application with these documents and accordingly, process the same in accordance with the procedure established under the Act and Rules made thereunder and pass orders thereon with regard to the registration of the vehicles concerned.

8. In that view of the matter, this Court is inclined to dispose of these Writ Petitions with the following orders:

> "that it is open to the petitioner to make an application in respect of the two vehicles referred to above in the prescribed format along with the documents mentioned above to the second respondent at the earliest and on receipt of the same, the second respondent shall process such application in accordance with law and pass orders with regard to the registration of the vehicles thereafter within a period of three weeks."

9. With these directions, both the Writ Petitions are disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

vji

To

1.The Secretary to the Government,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The Regional Transport Officer,
East Chennai,
Powder Mills Road,
Pulianthoppu, Chennai - 600 112.

+2ccs to Mr.Baskaran, Advocate Sr.No.65069, 65070

+1cc to the Government Pleader Sr.No.65313

W.P.Nos.25813 and 25817 of 2021

MG(CO)
RVM(15/02/2022)