BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.(MD) No.323 of 2007
and
M.P.(MD) No. 1 of 2007

M/s.S.G.Jayaraj Nadar and Sons,
Represented by its Partner
R.Jayakumar Jayaraj,
No.1, Periyakulam Road,
Ammainaickanur,
Nilakottai Taluk,
Dindigul District. ... Appellant/Petitioner

-vs-

The Deputy Commercial Tax Officer,
Nilakkottai. ... Respondent/REspondent

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.(MD) No.4634 of 2004, dated 20.06.2007.

Prayer in WP(MD). 4634/ 2004 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records on the file of the respondent herein in his notice in Roc.1820/2004/A3 (Asst.no.5300050/04-05) dated 25.10.2004 and qush the same.

For Appellant : Mr.R.Rajasekar
For Respondent : Mr.Ragavendran
Government Advocate

JUDGMENT
(Judgment of the Court was delivered by V.BHARATHIDASAN, J.)

This Writ Appeal has been filed challenging the order passed by this Court in W.P.(MD) No.4634 of 2004, dated 20.06.2007.

2. The order impugned in the writ petition relating to refund of excess entry tax collected from the appellant. The learned single

Judge dismissed the writ petition, following the judgment reported in ***2004 (4) CTC 45*** (***Khiviraj Motors LTD Vs. Assistant Commissioner, Fast Track Assessment Circle).*** Challenging the same, the present writ appeal has been filed.

3. Mr.S.Rajasekar, learned counsel appearing for the appellant would submit that, the judgment relied upon by the learned single Judge for dismissing the writ petition, has been reversed by the Division Bench of this Court in W.A.Nos.3201 to 3204 of 2004, dated 04.02.2010 and in view of the fact, the writ appeal should necessarily be allowed.

4. Mr.R.Ragavendran, learned Government Advocate appearing for the respondent has not disputed the fact and submitted that the matter has been covered by the judgment passed by the Division Bench in W.A.Nos.3201 to 3204 of 2004, dated 04.02.2010.

5. Considering the above facts, this Writ Appeal is allowed and the impugned order passed by the respondent is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Deputy Commercial Tax Officer,
Nilakkottai.

W.A.(MD).No.323 of 2007
08.10.2021

SJ(CO)
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