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) Nos.324 to 326 of 2007
and
M.P.(MD)Nos.1, 2 and 2 of 2007

M/s. Nagappa Motors
represented by its Partner, M.Somu,
No.222, Bye -Pass Road,Madurai. ... Appellant in all W.As.

-vs-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Commercial Taxes &
Religious Endowments,
Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
Mahal Assessment Circle,
Madurai. ... Respondents in all W.As.

PRAYER : Writ Appeals are filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.(MD) Nos.2015, 2016 and 2014 of 2005, dated 20.06.2007.

Prayer in WP(MD). 2015/ 2005 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent herein in Roc.1791/2004-Asst year 1993-94 dated 24/12/2004 quash the same and consequently direct the 2nd Respondent herein to refund the excess entry tax of Rs.2,31,026/- relating to the assessment year 1993-94 to the petitioner.

Prayer in WP(MD). 2016/ 2005 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To grant stay of all further proceedings of the 2nd respondent herein in Roc.1791/2004-Asst year 1995-96 dated 24/12/2004 quash the same and consequently direct the 2nd Respondent herein to refund the excess entry tax of Rs.3,71,842/- relating to the assessment year 1995-96 to the petitioner.

Prayer in WP(MD). 2014/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd Respondent herein in Roc.1791/2004-Asst year 1994-95 dated 24/12/2004 quash the same and consequently direct the 2nd Respondent herein to refund the excess entry tax of Rs.2,52,974/- relating to the assessment year 1994-95 to the petitioner.

For Appellant : Mr.S.Rajasekar
For Respondents : Mr.R.Ragavendran
Government Advocate

COMMON JUDGMENT

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

These Writ Appeals have been filed challenging the order passed in W.P.(MD)Nos.2015, 2016 and 2014 of 2005, dated 20.06.2007.

2. The order impugned in these writ petitions relating to refund of excess entry tax collected from the appellant. The learned single Judge dismissed these writ petitions, 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 appeals have been filed.

3. Mr.R.Rajasekar, learned counsel appearing for the appellant would submit that, the judgment relied upon by the learned single Judge for dismissing the writ petitions, 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, these writ appeals should necessarily be allowed.

4. Mr.R.Ragavendran, learned Government Advocate appearing for the respondents has not disputed the fact and submitted that the matters have 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, these Writ Appeals are allowed and the impugned order passed by the second respondent is set aside. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// 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
1. The Secretary to Government,
Department of Commercial Taxes &
Religious Endowments,
Fort St. George,
Chennai - 600 009.

2. The Commercial Tax Officer,
Mahal Assessment Circle,
Madurai.

W.A.(MD) Nos.324 to 326 of 2007
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