BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.314 of 2009

and

M.P.(MD).No.1 of 2009

(Through Video Conference)

M/s.Vinoth shipping services,
Represented by its partners,
S.Sundara Krishnan .. Petitioner

-Vs-

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

2. The Commercial Tax Officer-III,
Tuticorin.

3. Regional Transport Officer,
Tuticorin. .. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the levy of entry tax under Tamil Nadu Tax on entry of Motor Vehicle into LocalcAreas Act, 1990, for

Description of Goods		Country of origin	B/E No.& date
1) Liugong make CLG 856 Wheel Loader M.C.SR. 128344	:	China	874461/23.10.2008

imported by the petitioner as ultravires the constitution of India and as null and void.

For Petitioner : Mr.K.MD.Sirajudeen
For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Declaration, declaring the levy of entry tax under Tamil Nadu Tax on entry of Motor Vehicle into Local Areas Act, 1990, for the Goods namely, Liugong make CLG 856 Wheel, Loader M.C.SR.128344, from the origin of China, bearing B/E/No.874461/dated 23.10.2008, imported by the petitioner as ultra vires the constitution of India and as null and void.

2. The issue raised in this writ petition has already been settled by a decision of the Hon'ble Supreme Court in the ***State of Kerala and Others vs. Fr.William Fernandez etc.,*** reported in ***2017 SCC online SC 1291.*** Following the said order, number of writ petitions filed for the similar relief, which were pending before this Court had been dismissed and two such cases came up for consideration before me on 12.08.2021 in the matter of ***M/s.Sri Aiswarya Rock Export vs. State of Tamilnadu, rep. by the Secretary, Commercial Taxes and Religious Endowments Department,*** where I have passed the following order:

> "2.When the case is taken up for hearing, Mr.V.Veerapandian, learned Counsel appearing for the petitioner would submit that, the issue raised in these writ petitions had already been raised in a batch of cases and ultimately, the matter has gone to the Hon'ble Supreme Court. The issue has been settled in ***State of Kerala and others*** *Vs.* ***Fr.William Fernandez etc.,*** *reported in* ***2017 SCC online SC 1291.*** Following the same, number of writ petitions similar to that of the present writ petitions have been dismissed at various dates and one such order in this regard had been passed by the learned Judge of this Court in ***W.P.[MD]Nos.7144 to 7149 of 2008 etc.,*** batch in the matter of ***M/s.PRP Exports*** *Vs.* ***The State of Tamil Nadu*** *reported in* ***2020-2-Writ L.R. 815,*** and the same has been placed before this Court and relying upon the same, learned Counsel submits that similar order can be passed in these writ petitions also.
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> 3.The said position has not been controverted. Hence, the learned Government Advocate also seeks dismissal of these writ petitions, following the earlier order.
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> 4.I have considered the submissions made by the learned Counsels on either side and I have perused the materials placed before this Court.
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> 5.In the said order dated 03.11.2020, the learned Judge has passed the following order:
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> *"These writ petitions are filed for a Mandamus seeking for a direction to the respondents their men, agents, subordinates from levying and collecting Entry Tax under the provisions of the Tamil Nadu Tax on Entry of Motor vehicles into Local Areas Act, 1990 from the petitioner for registering their respective vehicles as per the respective invoices mentioned in the petition.2.The goods/vehicles, which are the subject matter of these Writ Petitions, were imported by the respective petitioners from abroad. According to the*

respective petitioners, the levy of entry tax on the said goods/vehicles under the Tamil Nadu Tax on Entry of Motor Vehicle into Local Areas Act 1990, is ultravires to the Constitution of India and is null and void and therefore, the consequential demand is also null and void.

3.The issues raised in these Writ Petitions have been considered by the Honourable Supreme Court in the case of State of Kerala and others vs Fr.William Fernandez etc., reported in 2017 SCC Online SC 1291, and the Honourable Supreme Court had upheld the levy of entry tax on goods imported from any place outside the territories of India into a local area for consumption, use or sale.

4.This Court, in a batch of Writ Petitions involving the same issue, also followed the aforesaid decision of Honourable Supreme Court and dismissed the Writ Petitions on 01.03.2019 filed by similarly placed petitioners in W.P.(MD)No.4837 of 2006 batch. Therefore, these Writ Petitions will also have to be necessarily dismissed. Accordingly, these Writ Petitions are dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed."

6.Since the issue raised in those writ petitions is similar to that of the present writ petitions, these writ petitions should also face the same fate and accordingly, they have to be dismissed and hence, these writ petitions are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

3.In view of the same, this writ petition also shall face on the same fate and accordingly, it has to be dismissed, hence, this writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 the Government,
State of Tamil Nadu,
Department of Commercial Taxes,
Fort St. George,
Chennai-600 009.

2. The Commercial Tax Officer-III,
Tuticorin.

3. Regional Transport Officer,
Tuticorin.

+1 CC to M/s.K.VADIVELU, Advocate (SR-27222[F] dated 25/08/2021)

+1 CC to M/s.GP (SR-27389[F] dated 26/08/2021)

W.P.(MD)No.314 of 2009
25.08.2021

PS(CO)
KB(06.10.2021) 4P 6C