BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.01.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P(MD)Nos.14859 and 14860 of 2010
and
M.P.(MD)Nos.1 and 1 of 2010

K.Deivendran ... Petitioner in both W.Ps.

Vs.

1.The State of Tamil Nadu,
Represented by the Secretary,
Commercial Taxes & Religious Endowments Department,
Fort St.George, Chennai - 9.

2.The Commercial Tax Officer,
Melur Assessment Circle,
Melur, Madurai District.

3.The Regional Transport Officer,
Madurai North, Madurai.

4.The Motor Vehicle Inspector Grade - I,
Unit Office, Sivagangai Road,
Melur. ... Respondents in both W.Ps.

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus,forbearing 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 Hydraulic Mobile Crane Crane Hydra-12 2 Part make and Hydraulic Mobile Crane Crane Hydra-10 STD (1) make: Escorts for use in the factory from Escorts Construction Equipment Limited, Plot No.219, Sector 58, Ballabgarh - 121004, Vide Invoice No.DS/101477 dated 30.11.2010 bearing Chassis No.1939138118 Engine No.S433-A28999 and Vide Invoice No.DS/101499 dated 30.11.2010 bearing Chassis No.1379258118 Engine No.S433-A28725 respectively.

(in both W.Ps)

For Petitioner : Mr.Sri Balaji
For Respondents : Mr.Dayalan,
Government Advocate.

COMMON ORDER

Heard the learned counsel on either side. In similar circumstances, this Court by order dated 24.06.2019 in WP(MD) Nos.12676 to 12681 of 2010 held as follows :

"2.The petitioner has raised several challenges to the levy of entry tax, per se and the writ petitions are styled more as a writ of declaration though, in conclusion, only mandamus is sought.

3.The levy of entry tax has been the subject of challenge on various grounds and the Supreme Court, in a judgment rendered by a Nine Judges Bench in the case of Jindal Stainless Limited and another vs. State of Haryana and others [(2017) 12 STC 1] has settled most of the issues raised barring two relating to (i) whether the levies satisfy the test of whether the tax burden on imported goods and goods produced legally is not discriminatory but equal and (ii) whether the entire state could be notified as a local area.

4.Be that as it may, there can be no direction issued to the statutory authorities not to make an assessment, although any assessment framed would have to be in accordance with the provisions of the Act. Thus, these Writ Petitions are dismissed with no order as to costs.

5.Liberty is granted to the respondents to proceed with assessment strictly in line with the judgement of the Supreme Court in Jindal Stainless Steel (supra). The petitioner has been granted an interim injunction on 08.10.2010 conditional upon the petitioner remitting 15% of the tax in each case. The petitioner states that this order has been complied with. The refund of this amount shall be subject to the assessments, as and when completed."

2.Respectfully following the aforesaid order, I dismiss these writ petitions. No costs. Consequently, connected miscellaneous petitions are also stand dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ias

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,
Commercial Taxes & Religious Endowments Department,
Fort St.George, Chennai – 9.

2.The Commercial Tax Officer,
Melur Assessment Circle,
Melur, Madurai District.

3.The Regional Transport Officer,
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4.The Motor Vehicle Inspector Grade – I,
Unit Office, Sivagangai Road,
Melur.

+1 CC to SPL GP (SR-1124[F] dated 19/01/2021)

W.P(MD)Nos.14859 and 14860 of 2010
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VB (05.02.2021) 3P 6C