BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.09.2021
CORAM:
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
W.P.[MD]Nos.11868 & 11869 of 2012

P.K.Mookanambalam & Co.,
21, Jawahar Street,
Gandhinagar,
Madurai - 20.
Rep. by its Partner,
Mr.P.K.M.Prabakaran,
S/o. Late P.K.Mookanambalam : Petitioner in W.P.[MD]No.11868/12

P.K.Mookanambalam & Co.,
21, Jawahar Street,
Gandhinagar,
Madurai - 20.
Rep. by its Partner,
Mr.A.Shammi,
S/o. K.Arumugasamy : Petitioner in W.P.[MD]No.11869/12

Vs.

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

2.The Assistant Commissioner (CT),
Thallakulam Assessment Circle,
C.T.Buildings,
Dr.Thangaraj Salai,
Madurai - 625 020.

3.The Registering Authority,
Regional Transport Officer,
Madurai North,
Madurai. : Respondents in both Writ Petitions

COMMON PRAYER:

Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writs of Declaration, to declare the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990, as ultra vires, Articles 14, 19(1)(g), 301 and 304(a) and (b) of the Constitution of India and being non compensatory in nature, in view of the recent finding rendered by the Division Bench of the Hon'ble High Court reported in 13 VST 390 following the law declared by the Supreme Court of India in the judgment reported in 145 STC 544 and therefore, unenforceable and of no effect in so far as the petitioner herein is concerned.

For Petitioner : Mr.K.Kumaravel
For Respondents : Mr.R.Suresh Kumar,
Government Advocate
[In both Writ Petitions]

COMMON ORDER

The prayer sought for herein is for Writs of Declaration, to declare the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990, as ultra vires, Articles 14, 19 (1)(g), 301 and 304(a) and (b) of the Constitution of India and being non-compensatory in nature, in view of the recent finding rendered by the Division Bench of the Hon'ble High Court reported in 13 VST 390 following the law declared by the Supreme Court of India in the judgment reported in 145 STC 544 and therefore, unenforceable and of no effect in so far as the petitioners herein are concerned.

2.The issue raised in these writ petitions is already decided in a number of cases followed by a decision of the Hon'ble Supreme Court in the case of ***State of Kerala and others*** *Vs.* ***Fr.William Fernandez etc.,*** *reported in* ***2017 SCC online SC 1291.***

3.A similar case came up for hearing in ***W.P.[MD]Nos.10 & 11 of 2012*** in the case of ***M/s. Sri Aiswarya Rock Export Vs. the State of Tamil Nadu, Represented by the Secretary, Commercial Taxes & Religious Endowments Department,*** where I have considered the said issue and passed an order on ***12.08.2021,*** which reads as follows:

> *"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.*

3.The said position has not been controverted. Hence, the learned Government Advocate also seeks dismissal of these writ petitions, following the earlier order.

4.I have considered the submissions made by the learned Counsels on either side and I have perused the materials placed before this Court.

5.In the said order dated 03.11.2020, the learned Judge has passed the following order:

> *"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."

4.Since, the issue raised in these writ petitions are also covered by the said decision, these Writ Petitions are also dismissed, accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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,
State of Tamil Nadu,
Commercial Taxes Department,
Fort St. George, Chennai – 600 009.

2.The Assistant Commissioner (CT),
Thallakulam Assessment Circle,
C.T.Buildings,
Dr.Thangaraj Salai,
Madurai – 625 020.

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

+1 CC to The Special Government Pleader(SR-29099)

COMMON ORDER MADE IN
W.P.[MD]Nos.11868 & 11869 of 2021
14.09.2021

KS(CO)/RS (18.10.2021) 5P 5C