BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)Nos.9206 of 2011 and 4749 of 2013

&

M.P.(MD)Nos.1 of 2011 and 1 of 2013

W.P.(MD)No.9206 of 2011:

M/s. Sivanthi Joe Substrates Pvt. Ltd.,
Rep. by its Director,
K.Sivakar ... Petitioner

-Vs-

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

2.The Assistant Commissioner,
Commercial Tax Officer-III,
North Beach Road,
Tuticorin.

3.The Regional Transport Officer,
Collectorate Complex,
Tuticorin. ... Respondents

W.P.(MD)No.4749 of 2013:

P.K.Mookanambalam & Co.,
Rep. by its Partner,
K.Arumugasamy ... Petitioner

-Vs-

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

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

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

Prayer in W.P.(MD)No.9206 of 2011:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration, to declare the levy of entry tax under the Tamil Nadu Tax on entry of Motor Vehicle into Local Areas Act, 1990, for Hydraulic Loader purchased from M/s.J.C.B India Ltd., Ballabgarh, Haryana State vide company Invoice No.9210010018, dated 30.06.2011, as ultravires the Constitution of India and as null and void.

Prayer in W.P.(MD)No.4749 of 2013:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ 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 insofar as the petitioner herein is concerned.

For Petitioner : Mr.K.Vadivelu (W.P.(MD)No.9206 of 2011)
Mr.M.Sridharan(W.P.(MD)No.4749 of 2013)
For Respondents : Mr.R.Sureshkumar (In both WPs)
Government Advocate

COMMON ORDER

Since the issue raised in both these writ petitions are one and the same, with the consent of the learned counsel appearing for the parties, both the writ petitions have been heard together and have been disposed of by common Order.

2.In these cases, the prayer sought for is to issue a Writ of Declaration, to declare the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

3.In fact, the issue raised in these writ petitions has already been given a quietus by the Judgment of Hon'ble Supreme Court in the matter of ***State of Kerala and Others vs. Fr.William Fernandez etc.,*** reported in ***2017 SCC online SC 1291.***

4.Following the said Judgment, number of cases of this nature have already been disposed of by this Court, some of cases of similar nature had come up for hearing before me and on 19.08.2021 in W.P(MD)No.1187 of 2007, etc., batch, I have passed the following order:

"3.In fact, the issue as to the validity of the said Act had also been subject matter in various writ petitions and the matter had gone to the Hon'ble Supreme Court of India, where it was given a quietus in a reported decision in the case of State of Kerala and others Vs. Fr.William Fernandez etc., reported in 2017 SCC online SC 1291.

4.Following the same, similar such writ petitions which were subsequently filed and pending before this Court were disposed of by this Court, one such writ petition came up for consideration before this Court on 12.08.2021 in W.P.[MD]Nos.10 & 11 of 2012 in the matter of ***M/s. Sri Aiswarya Rock Export*** *Vs.* ***The State represented by the Secretary*** *and others, 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.*

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."

5.The learned Counsel appearing for the petitioners fairly submitted that, since the issue has already been decided, following the Supreme Court Judgment referred to above and all those writ petitions either seeking for a Writ of Declaration or for a Writ of Mandamus, since has already been dismissed at various point of time and one such order has been passed by this Court on 12.08.2021 in the aforesaid case, these cases also can be *disposed of in the same line, he contended.*

6.The said position is reiterated by the learned Government Counsel in all these cases.

7.In view of the above, since writ petitions similar to that of the present batch of cases had already been disposed of by a recent order of this Court dated 12.08.2021 following the judgment of the Hon'ble Supreme Court in Fr.William case (cited supra), following the same, there shall be a similar order in these writ petitions, where all these writ petitions are liable to be dismissed. Accordingly, these writ petitions are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

5.In view of the aforesaid, all these writ petitions are liable to be dismissed and accordingly, these writ petitions are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PNM/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,
The State of Tamil Nadu,
Department of Commercial Taxes,
Fort St. George,
Chennai 600 009.

2.The Assistant Commissioner,
Commercial Tax Officer-III,
North Beach Road,
Tuticorin.

3.The Regional Transport Officer,
Collectorate Complex,
Tuticorin.

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

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

+1 CC to M/s.VADIVELU, Advocate (SR-30299[F] dated 27/09/2021)

+1 CC to M/s.SPL.GP (SR-30338[F] dated 27/09/2021)

W.P.(MD)Nos.9206 of 2011
& 4749 of 2013
24.09.2021

TSK(CO)
RS/UV (08.11.2021) 6P 8C