BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.02.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.10905 of 2015

M.Rajasingh ... Petitioner

Vs.

1. The Commissioner,
(Commercial Taxes),
Chepauk, Chennai – 5.

2. The Joint Commissioner,
(Commercial Taxes),
P.R.Lane Road, Palayamkottai,
Tirunelveli District.

3. The Assistant Commissioner,
(Commercial Taxes),
Kuzhishorai Assessment Circle,
Raj Prakash North Street,
Marthandam,
Kanaykumari District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to refund Entry Tax for a sum of Rs.1,95,217/- which was paid on 01.10.2014 as per the Tamil Nadu Entry of Motor Vehicles into Local Areas Ordinance 1990 to the petitioner within a time stipulated by this Court.

For Petitioner : Mr.V.Sasikumar
For Respondents : Ms.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side.

2. The writ petitioner is a native of Kanyakumari District. He is employed in BSF as a permanent constable. During the relevant time, he was on deputation with the special protection group. He purchased an Innova car through BSF canteen at Jodhpur, Rajasthan. The petitioner brought the said vehicle to his native place at Kanyakumari. He was made to a sum of Rs.1,95,217/- towards Entry Tax. Later the petitioner submitted representation contending that a defence personnel is entitled to exemption from the levy of Entry Tax and that he should therefore be refunded the amount paid by him. Since there was no response to the petitioner's request, the present writ petition came to be filed.

3. The prayer in the writ petition is contested by the respondents. The respondents have filed a detailed counter affidavit.

4. I carefully considered the rival contentions and went through the materials on record.

5. In the affidavit filed in support of this writ petition, the only ground taken is that the petitioner should be granted exemption by virtue, he being a defence personnel.

6. As rightly pointed out by the learned Special Government Pleader appearing for the respondents, vide communication in G.O.No.26CTRE Dept. dated 25.01.1994 certain classes were made eligible for exemption from payment of Entry Tax. Serial No.6 refers to Canteen Stores Department in Defence service of Government of India in the State of Tamil Nadu. This was later amended and the defence personnel on transfer to forward area were also made eligible. Likewise any importer in respect of Entry of Cars and Two wheelers for sale to canteen stores Department for supply to the personnel in Defence Services is eligible for exemption.

7. The petitioner has not established before this Court that he is a defence personnel on transfer to forward area. If the petitioner can bring himself within the exempted category, this Court will grant him any relief. The petitioner cannot claim exemption on the sole ground that he is a defence personnel.

8. There is no factual pleading or material in support of the plea projected by the petitioner. For these reasons, I am unable to grant relief.

9. This writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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 Commissioner, (Commercial Taxes),
   Chepauk, Chennai – 5.

2. The Joint Commissioner,(Commercial Taxes),
   P.R.Lane Road, Palayamkottai,
   Tirunelveli District.

3. The Assistant Commissioner, (Commercial Taxes),
   Kuzhishorai Assessment Circle,
   Raj Prakash North Street,
   Marthandam,
   Kanaykumari District.

+1 CC to SPL GP (SR-5674[F] dated 17/02/2021)

W.P.(MD)No.10905 of 2015
16.02.2021

KM (04.03.2021) 3P 5C