IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

WP.Nos.8039 & 8040 of 2010
and
MP.Nos.1 & 2 of 2010

Kubota Agriculture Machinery India Pvt. Ltd.,
Rep. by its Deputy Managing Director,
Masayasu Otsuka,
Olympia Tech Park,
No.1, Sidco Industrial Estate, Guindy,
Chennai-600 032.
... Petitioner in both WPs

Vs

The Assistant Commissioner (CT),
Guindy Assessment Circle,
No.46, Greenways road,
Chennai-600 028. ... Respondent in WP.8039/2010
and R2 in WP.No.8040/2010

The State of Tamil Nadu,
Rep. by its Secretary to Government,
Commercial Taxes Department,
Fort St. George,
Chennai-600 009. ... R1 in WP.No.8040 of 2010

Prayer in WP.No.8039 of 2010: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned Proceedings of the Respondent passed in RC.No.1488 of 2009 dated 16.06.2009 and quash the same.

Prayer in WP.No.8040 of 2010: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, to declare that the provisions of Sub-sections (d), (g), of Section 2 and Section 3 of the Tamil Nadu Tax On Entry of Motor Vehicles into Local Areas Act 1990 is not applicable in respect of motor vehicles imported by the petitioner from outside the country as the impugned levy is being violative of Articles 14, 19(1)(g), 286 & 304(b) of the Constitution of India.

(In both WPs)
For Petitioner : Mr.N.Murali

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

COMMON ORDER

The issue that arises in WP.No.8040 of 2010, which seeks a declaration that the provisions of Sub-sections (d) and (g) of Section 2 and Section 3 of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 are not applicable in respect of motor vehicles imported by the petitioner from outside the country as being violative of Articles 14, 19(1)(g), 286 and 304(b) of the Constitution of India, stands squarely covered against the petitioner by the judgment of the Hon'ble Supreme Court in the case of State of Kerala and Others vs. Fr. William Fernandez Etc. (2017 SCC Online SC 1291).

2. WP.No.8040 of 2010 is thus dismissed. No costs. Connected miscellaneous petition is closed.

3.As far as WP.No.8039 of 2010 is concerned, the challenge is to a notice dated 16.06.2009. While the legal issue stands decided against the petitioner as above, since the proceedings are at a preliminary stage and the petitioner states that there are certain factual particulars that have to be submitted to the Assessing Authority, the impugned notice is confirmed, granting liberty to the petitioner to respond to the same within a period of three (3) weeks from today. Upon receipt of the reply, the Assessing Authority shall call upon and hear the petitioner and pass orders in accordance with law, within a period of four (4) weeks from date of receipt of the objection.

4.With this, W.P.No.8039 of 2010 stands disposed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vs
To

1. The Assistant Commissioner (CT),
Guindy Assessment Circle,
No.46, Greenways road,
Chennai-600 028.

2. The Secretary to Government,
   Commercial Taxes Department,
   Fort St. George,
   Chennai-600 009.

+2cc to Mr.N.Murali, Advocate, S.R.No.37989,37990
+1cc to the Special Government Pleader,(Taxes) S.R.No.38395

WP.Nos.8039 & 8040 of 2010 and
MP.Nos.1 & 2 of 2010

SJ(CO)
CT/11/07/2022