IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.NO.24898 OF 2012
AND
M.P.NO.1 OF 2012
AND
W.M.P.NO.9342 OF 2018

M/s.Oriental Hotels Ltd.,
Rep. by Managing Director,
Unit -Taj Coromandel
37, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 003.

...Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Principal Secretary & Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Registering Authority,
Regional Transport Office,
Chennai (Central),
MTC Building, Ayanavaram,
Chennai - 600 023.

... Respondents

Prayer Writ Petition filed under Section 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the 2nd respondent to register under the Motor Vehicles Act, 1988 the imported Jaguar XF 3.0 Diesel S Premium Luxury Model car bearing VIN No.SAJAC0650CNB50425, Engine No.0637346306DT, without insisting for a 'No Objection Certificate' from the 1st respondent department for payment of Entry Tax.

For Petitioner : Mr.C.Subramanian
for Mr.B.Raveendran

For Respondents : Mr.C.Sathish
Government Advocate

ORDER

This Writ Petition is filed seeking for a direction the 2nd respondent to register under the Motor Vehicles Act, 1988 the imported Jaguar XF 3.0 Diesel S Premium Luxury Model car bearing VIN No.SAJAC0650CNB50425, Engine No.0637346306DT, without insisting for a 'No Objection Certificate' from the 1st respondent department for payment of Entry Tax.

2. The payment of entry tax for registration of imported foreign vehicles is no more res integra. The Hon'ble Division Bench of this Court by order dated 29.01.2019 in W.P.No.32710 of 2005 and etc., batch considering the earlier judgments of this Court and the Hon'ble Apex Court in the case of State of Kerala and Others. vs. Fr.Villiam Fernandez and Others in Paragraph Nos.75 & 76, has held that entry tax is payable for the imported foreign vehicles, which reads as follows:

> "75. At the first instance, we need to point out that no Court can compel the Government to exercise its power to examine or for that matter to grant administrative waiver. It is a policy decision to be taken by the Government and it is not for the Court to dictate as to whether or not the Government should exercise such power. That apart, facts of the case in which Government granted administrative waiver subject to conditions vide G.O.Ms.No.157 dated 22.04.1996 was entirely different and cannot be applied to the present cases, which arise out of a different enactment, the purport and intent being totally different. First of the decision was in the year 1999 holding that entry tax is leviable on import of vehicles. Another learned single Bench took a different view but did not distinguish the earlier decision, but chose to follow the decision of the Division Bench of the Kerala High Court in Fr.William Fernandez. In the third decision, there has been a reference because in the third decision, the first decision was noted. However, we need not labour much to make a further probe on this issue because the decision of the Division Bench of the Kerala High

Court in Fr.William Fernandez has been reversed by the Hon'ble Supreme Court and the matters have attained finality. It is not in dispute that the petitioner in W.P.No.33525 of 2007 is still in possession and ownership of the vehicle imported by them. The law on the subject as decided by this Court as early as 01.09.1999 holds that the entry tax is leviable on imported vehicles. Therefore, we do not find any merits in the submissions that the matter should be relegated to the Government for grant of administrative waiver.

76. For all the above reasons, the writ petitions are dismissed and it is held that the petitioners are liable to pay entry tax on imported vehicles brought into the State of Tamil Nadu for use or for sale. Insofar as the miscellaneous petitions filed by the petitioners raising additional grounds are concerned, the learned Senior Counsel has not advanced any arguments, but their argument was only on the ground of administrative waiver in the light of the decision taken by us in the preceding paragraphs. Hence, there is no necessity to consider the additional grounds raised in the miscellaneous petitions. Accordingly, the same stands closed. No costs."

3.The ratio of the order referred to above is squarely applicable to the facts of the present case. In view of the same, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Principal Secretary & Commissioner
of Commercial Taxes,
State of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.

2. The Registering Authority,
   Regional Transport Office,
   Chennai (Central),
   MTC Building, Ayanavaram,
   Chennai - 600 023.

+1cc to Mr.B.Raveendran, Advocate, S.R.No.15450

+1cc to the Government Pleader, S.R.No.15869

W.P.No.24898 of 2012

MT(CO)
RLP(29/03/2022)