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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.12322 of 2022

Sathish R. ...Petitioner

Vs.

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

2. The Transport Commissioner,
Commissionerate of Transport and Road Safety,
Ezhilagam, Chepauk, Chennai-600 005.

3. The Regional Deputy Transport Commissioner (Erode),
Kollukattumedu, Karur Bypass Road,
Lakkampuram (Po), Erode-638 002.

4. The RTO Kumarapalayam,
Ganapathipalayam,
Pallipalayam, Tamil Nadu-638 008.

5. Manasarovar Automobiles Pvt. Ltd.,
15 Arcot Road, Porur Kamala Nagar,
Valasaravakkam,
Chennai, Tamil Nadu – 600 116.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 4th respondent to refund an excess motor vehicle tax of Rs.50,890/- imposed by 3rd respondent at the time of permanent registration in violation of the third schedule read with Section 4 (1-A) of the Tamil Nadu Motor Vehicles Taxation Act, 1974.

For Petitioner : Ms.Maitreyi Sachi Ananda Hedge

For Respondents: Mrs.C.Sangamithirai (for R1 to R4)
Special Government Pleader

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ORDER

Mrs.Sangamithirai, learned Special Government Pleader accepts notice for the State as well as the officials of the Transport Department i.e. R1 to R4 and she is in possession of the requisite facts necessary to enable a final disposal of this Writ Petition. In the nature of the order that is proposed to be passed, no notice is thought necessary to the dealer arrayed as R5.

2.The petitioner had purchased a Honda Jazz ZX CVT from R5 and had paid a sum of Rs.9,98,606/- towards consideration on 27.12.2021. Temporary registration was sought for and obtained. When the petitioner had approached R4 for permanent registration, he was informed by the authorities that the price of the car had increased to Rs.10,05,000/- and hence the tax payable would be 15% and not 10% .

3.The petitioner, thus proceeded to remit the additional tax over and above what he believed he was required to pay, left with no option in this regard as raising an objection at that stage would have delayed the process of registration.

4.In arriving at the amount of tax to be paid, reliance is placed upon Schedule-III of Part-I of the Tamil Nadu Motor Vehicles Taxation Act, 1974, which prescribes a rate of 10% in respect of all vehicles, costing less than a sum of Rs.10,00,000/-. Since the cost of the car in question at the time of purchase was less than Rs.10,00,000/-, the petitioner argues that he is required only to pay 10% as tax and no more.

5.I need hardly address this question at this juncture as the petitioner has approached R4 with a petition seeking refund of the tax allegedly paid in excess. Though, there is no acknowledgment of receipt placed on file, the learned counsel for the petitioner maintains that the same has been sent. Let a copy be filed before R4 forthwith to ensure compliance of R4 to the direction issued below.

6.Mandamus is issued to R4, to hear the petitioner and dispose the application for refund within a period of four (4) weeks from the date of receipt of the application. With this, this Writ Petition stands closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

vs/kbs

Sub Assistant Registrar

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To

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

2. The Transport Commissioner,
   Commissionerate of Transport and Road Safety,
   Ezhilagam, Chepauk,
   Chennai-600 005.

3. The Regional Deputy Transport Commissioner (Erode),
   Kollukattumedu, Karur Bypass Road,
   Lakkampuram (Po), Erode-638 002.

4. The RTO Kumarapalayam,
   Ganapathipalayam,
   Pallipalayam, Tamil Nadu-638 008.

+1cc to the Government Pleader, S.R.No.32548

W.P.No.12322 of 2022

GSM(CO)
UMA(16/06/2022)

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