BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.02.2022
CORAM:
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Appeal(MD)Nos.517 and 518 of 2011

M/s.A.R.A.S. Motors (P) Ltd.,
Rep. by its Director Mr.R.Rathnasabai,
No.38, T.P.K. Road,
Madurai. ... Appellant/Petitioner in both appeals

vs.

The Commercial Tax Officer,
Nethaji Road Circle,
Madurai. ... Respondent/Respondent in both appeals

Appeals filed under Clause 15 of Letters Patent, against the orders passed in W.P(MD)Nos.2190 and 2191 of 2004 dated 03.03.2005.

Prayer in WP(MD). 2190 of 2004 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI-FIED-MANDAMUS or any other appropriate writ, order or direction in the nature of a writ, calling for the records on the file of the respondent herein in his proceedings in Roc.2470/2003/A4 dated 9.12.2003 quash the same and consequently direct the respondent herein to refund the excess entry tax amounting to Rs.2,39,620/- relating to the assessment year 2000-2001 to the petitioner.

Prayer in WP(MD). 2191 of 2004 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI-FIED-MANDAMUS or any other appropriate writ, order or direction in the nature of a writ, calling for the records on the file of the respondent herein in his proceedings in Roc.2470/2003/A4 dated 9.12.2003 quash the same and consequently direct the respondent herein to refund the excess entry tax amounting to Rs.10,54,888/- relating to the assessment year 2001-2002 to the petitioner.

For Appellant : Mr.S.Rajasekar
For Respondent : Mr.D.Gandhiraj
Special Government Pleader

COMMON JUDGMENT

R.SUBRAMANIAN, J.
AND
N.SATHISH KUMAR, J.

The challenge in the writ petition was to the rejection of the request for refund made by the respondent by order dated 09.12.2003. The writ petitions came to be dismissed on the ground that the issue is covered by the judgment of this Court in **Khiviraj Motors Ltd., vs. Assistant Commissioner, Fast Track Assessment Circle**, reported in **2004 (4) CTC 45.**

2. It is now brought to our notice that the said judgment has been reversed by the Division Bench in **W.A(MD)Nos.3201 to 3204 of 2004 dated 04.02.2010.**

3. In view of the above, these Writ Appeals will have to be allowed and they are accordingly allowed. The writ petitions will stand allowed. The impugned orders of rejection will stand quashed. The respondent shall refund the excess tax collected from the appellant / writ petitioner within a period of eight weeks from the date of receipt of a copy of this judgment. No costs.

Sd/-
Deputy Registrar (LA&MC)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

bala

To

The Commercial Tax Officer,
Nethaji Road Circle,
Madurai.

+1 CC to M/s.S.RAJASEKAR, Advocate (SR-8904[F] dated 25/02/2022)

COMMON JUDGMENT MADE IN
W.A(MD)Nos.517 and 518 of 2011
DATED : 23.02.2022

rj(CO)
GC(11.03.2022) 2P 3C