BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.03.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) Nos.3787, 3796 and 3800 of 2022
and
W.M.P.(MD) No.3306 of 2022 in W.P.(MD)No.3796 of 2022

W.P.(MD)No.3787 of 2022:-

M/s.Hari & Co.,
Rep. by its Managing Partner,
Mr.M.Annamalaiswamy,
No.4/29, Madurai Bye-Pass Road,
Tuticorin. .. Petitioner

Versus

The Assistant Commissioner (ST) (FAC),
Tuticorin – III Assessment Circle,
Tuticorin. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN:33775840523/2011-2012, dated 30.12.2020, and quash the same as it is unlawful and without jurisdiction in terms of the decision of the Hon'ble Division Bench of this Court reported in (2010) 28 VST 356 (Mad) and also barred by limitation as per Section 8(5) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

For Petitioner : Mr.R.D.Ganesan
For Respondent : Mr.J.K.Jayaselan
Government Advocate

W.P.(MD)No.3796 of 2022:-

M/s.Hari & Co.,
Rep. by its Managing Partner,
Mr.M.Annamalaiswamy,
No.4/29, Madurai Bye-Pass Road,
Tuticorin. .. Petitioner

Versus

The Assistant Commissioner (ST)-2,
Tuticorin – 2-(C) Assessment Circle,
Tuticorin. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN:33775840523/2009-2010, dated 30.09.2019, and quash the same as it is unlawful and without jurisdiction in terms of the decision of the Hon'ble Division Bench of this Court reported in (2010) 28 VST 356 (Mad) and also barred by limitation as per Section 8(5) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mr.M.Prakash
Additional Government Pleader

W.P.(MD)No.3800 of 2022:-

M/s.Hari & Co.,
Rep. by its Managing Partner,
Mr.M.Annamalaiswamy,
No.4/29, Madurai Bye-Pass Road,
Tuticorin. .. Petitioner

Versus

The Assistant Commissioner (ST) (FAC),
Tuticorin – III Assessment Circle,
Tuticorin. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN:33775840523/2010-2011, dated 30.12.2020, and quash the same as it is unlawful and without jurisdiction in terms of the decision of the Hon'ble Division Bench of this Court reported in (2010) 28 VST 356 (Mad) and also barred by limitation as per Section 8(5) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mr.K.S.Selvaganesan
Additional Government Pleader

COMMON ORDER

There is no merit in these Writ Petitions filed challenging the assessment orders passed by the respondent under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 [hereinafter referred to as ''the Act''].

2.The challenge on the ground that the impugned notices that they were issued beyond the period of limitation, cannot be countenanced as the petitioner had challenged the levy of entry tax in W.P.Nos.32710 of 2005 etc. batch, which came to be dismissed by the Division Bench of this Court, vide order dated 29.01.2019, in the light of the decision of the Hon'ble Supreme Court in **State of Kerala and others Vs. Fr. William Fernandez etc. etc. [2018 (57) GSTR 6X (SC) : 2017 SCC Online SC 1291].** There was a stay in operation.

3.The Hon'ble Supreme Court has answered the issue regarding levy of entry tax on goods against the importers. That apart, the argument that the vehicle was not a motor vehicle within the meaning of Section 2(28) of the Motor Vehicles Act, 1988, also cannot be countenanced, as the petitioner had previously filed a Writ Petition to direct the authorities to register the vehicle since without such registration, the Port authorities were refusing to clear the vehicle.

4.The petitioner has an alternate remedy under the Act and therefore, these Writ Petitions are dismissed. However, liberty is given to the petitioner to file appeals before the appellate authority within a period of 30 days from the date of receipt of a copy of this order. If such appeals are filed before the appellate authority within such time, the appellate authority shall hear the appeals and dispose of the same on merits and in accordance with law. Needless to state that the appellate authority shall not get influenced by the observations in this order on merits and shall decide the case independently. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

smn2

To

1.The Assistant Commissioner (ST) (FAC),
Tuticorin - III Assessment Circle,
Tuticorin.

2.The Assistant Commissioner (ST)-2,
Tuticorin - 2-(C) Assessment Circle,
Tuticorin.

Copy to

The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.R.D.GANESAN, Advocate (SR-9320,9322[F] dated 01/03/2022)

+1 CC to M/s.SPL GP (SR-9423,9438[F] dated 02/03/2022)

Writ Petition (MD) Nos.3787, 3796 and 3800 of 2022
01.03.2022

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