HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25819-2013
Reserved on: 13.02.2023
Pronounced on:24.02.2023

Agri Infra Limited **....Petitioner**

Vs.

Assistant Excise and Taxation Commissioner and anr....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: None for the petitioner.

Mr. Alankar Narula, A.A.G., Punjab.

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Ritu Bahri, J.

The petitioner is seeking quashing of the memo No. 794/cc-I dated 01.10.2013 (Annexure P-10) and further a writ of mandamus directing the respondents not to recover any entry tax leviable under notification No. S.O.24./P.A.9/2000/S3-A/2013 dated 04.04.2013 (Annexure P-4) of the Punjab Government issued under Section 3A of the Punjab Tax on Entry of Goods into Local Areas Act, 2000 (in short 'Act, 2000') on the motor vehicles purchased from outside the State of Punjab and direction to the respondents to register motor vehicles under the Motor Vehicle Act, 1988, purchased by the petitioner from outside the State of Punjab and brought into the State of Punjab, without any payment of entry tax levied under notification dated 04.04.2013 (Annexure P-4).

Vide order dated 26.05.2014, this writ petition was to be tagged alongwith CWP-15378-2008. The said writ petition was disposed of on 18.12.2017 in terms of the detailed order passed in CWP-5537-2008 titled as ***Steel Furnace Association of India and another vs. State of Punjab and another.*** ***In Steel Furnace Association of India's case (supra),*** the Division Bench of this Court was considering the question of law pertaining to the constitutional validity of the Act, 2000 with further prayer to strike down the Punjab Tax on Entry of Goods into Local Areas Rules, 1999 besides a direction for the refund of the unadjusted amount of entry tax. The said case was disposed of by making reference to the judgment given by a Nine-Judges Constitution Bench of the Hon'ble Supreme Court in ***Jindal Stainless Ltd. and another vs. State of Haryana and others 2016 (11) Scale 1***. In the said judgment, the Hon'ble Supreme Court had answered the question with respect to the vires of the 2000 Act against the petitioner therein. However, the petitioner stated that they had several others grounds on which they were entitled to question the validity of the 2000 Act, which were not pleaded in that case. The petitioners relied upon order dated 21.03.2017 passed by Hon'ble the Supreme Court in Haryana matters with respect to other question. In para No. 7 of the said judgment, it has been observed as under:-

> "(7) Learned counsel for the petitioners fairly state that the grounds on which they laid challenge to the vires of 2000 Act have been answered against them by the nine-Judges Constitution Bench in ***Jindal Stainless Ltd.*** case, reproduced above. Regardless thereto, learned counsel submits that there are several other grounds on which they are entitled to question the validity of 2000 Act which they have not pleaded in the instant cases. They rely upon the order dated 21.03.2017 passed by Hon'ble Supreme Court in Haryana matters i.e. in ***Civil***

Appeal No.997-998 of 2004 (State of UP & Ors. vs. M/s Indian Oil Corporation Ltd. etc.) to urge that the questions (i) whether the entire State can be treated as a 'local area' for the purposes of Entry Tax? (ii) Whether the Entry Tax can be levied on the goods which are directly imported from other countries and brought in a particular State? and (iii) Whether the benefits given to certain categories of manufacturers under some Statutes enacted by certain States would amount to discrimination within the meaning of Article 304 of the Constitution, do arise for consideration in these cases also besides various other Constitutional or Statutory issues. They thus seek amendment of writ petitions to enable them to raise these additional grounds."

Since the main challenge of the constitutional validity of the Act, 2000 had been examined by the Hon'ble Supreme Court in ***Jindal Stainless Ltd's case (supra)*** and it had upheld the vires of the 2000 Act. Hence, without expressing any opinion on the merits of the case, this writ petition is disposed of by giving direction to the concerned authority to give opportunity to the petitioner to raise new grounds in accordance with law.

(RITU BAHRI)
JUDGE

24.02.2023
Divyanshi

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No