IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.1152 of 2021
and W.M.P.No.1290 of 2021

M/s.VSG Motors
Rep.by its Partner S.Kuppusamy ... Petitioner

vs.

The Assistant Commissioner (ST),
Anupparpalayam Assessment Circle,
Tirupur. .. Respondent

Prayer : Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings made in TIN: 33752394706/2016-17 dated 18.11.2020 and quash the same.

For Petitioner : M/s.Dhanaram Ramachandran

For Respondent : Mr.V..Prashanth Kiran
Addl.Govt.Pleader.

ORDER

The petitioner is before this Court against the impugned assessment order dated 18.11.2020 demanding a sum of Rs.1,95,22,437/-

towards Tamil Nadu Tax on Entry of Motor Vehicles to Local Areas Act, 1990.

2. The impugned Assessment order precedes notices dated 11.10.2019, 19.04.2019 and 02.10.2020 and further revised notice dated 09.03.2020 and 28.05.2020 respectively. The facts on record indicates that the demand has been made for the assessment year 2016-17.

3. The petitioner is an assessee under the provisions of Tamil Nadu Tax on Entry on Motor Vehicles to Local Areas Act, 1990 and was therefore required to pay entry tax after filing returns as per the provisions of the aforesaid Act.

4. It appears that the petitioner claims to have paid a sum of Rs.36,47,433.00 as tax under the Tamil Nadu Tax on Entry of Motor Vehicles to Entry Tax Local Areas Act, 1990, for the year and but had failed to file any returns under the said Act. The petitioner being a dealer of Motor vehicles, however, has also paid tax under the provisions of the Tamil nadu Value Added Tax Act, 2006. The Entry tax payable by the

petitioner under Section 3 of the Tamil Nadu Tax on Entry on Motor Vehicles Tax Act, 1990 was available for being set off against the tax liability under TNVAT Act, 2006 in terms of Section 4 of the Entry Tax on Entry on Motor Vehicle Tax Act, 1990.

5. The petitioner paid a sum of Rs.36,47,433/- out of total tax liability of Rs.1,95,22,437/- towards entry tax under the provisions of Tamil Nadu Tax on Entry on Motor Vehicles Tax Act, 1990 .

6. Since the issue is revenue neutral, imposition of tax at this distant point of time may be unnecessary. It is quite possible that the petitioner may have discharged the VAT liability in this State on vehicle which were imported from other States which was liable to tax under Tamil Nadu Tax on Entry on Motor Vehicles Tax Act, 1990. However, it would require a verification.

7. At the same time, the failure on the part of the petitioner to payment of tax under the Tamil Nadu Tax on Entry on Motor Vehicles Tax Act, 1990 in time may attract interest and penalty under the said Act

on account of default committed by the petitioner as such failure would have resulted in a loss of revenue to the exchequer.

8. It also appears that the petitioner has not given any reply to the respondent and therefore the respondent proceeded to pass impugned order.

9. As mentioned above, by directing the petitioner to pay the additional Entry Tax at this distant point of time will also result in non-availability of such tax for being adjusted towards the tax liability under the provisions of the TN VAT Act, 2006 as both TN VAT Act, 2006 and Tamil Nadu Tax on Entry of Motor Vehicles to Local Areas Act, 1990 have been repealed and substituted into TNGST Act, 2017.

10. Therefore, to balance the interest of the petitioner and also the Commercial Tax Department, Court is inclined to set aside the impugned order and remits the case back to the respondent to pass a fresh order on merits in so far as recovery of interest alone on delayed payment of Entry Tax of **Rs.1,58,74,004/-** (Rs.1,95,22,437/- Rs.36,47,433/-) between the

date of chargeability of Entry Tax on imports made into the State and date of local sales of the Vehicles on payment of VAT under TNVAT Act, 2006. The amount pre-deposited by the petitioner pursuant to the order dated 22.01.2021 shall be adjusted towards the interest liability, and balance, if any, shall be refunded to the petitioner.

11. The petitioner shall also file a detailed reply within a period of 45 days from the date of receipt of a copy of this order. The respondent shall thereafter endavour to pass final order within a period of 45 days thereafter .

12. This writ petition stands disposed of with the above observation. No costs. Consequently, miscellaneous petition is closed.

25.09.2024

Index : Yes/ No
Internet : Yes/No
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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To

The Assistant Commissioner (ST),
Anupparpalayam Assessment Circle,
Tirupur.

W.P.No.1152 of 2021

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