IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.08.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**
and
THE HONOURABLE **MR. JUSTICE G.ARUL MURUGAN**

W.P.No.22569 of 2007

M/s.Bharathan Publications Pvt. Ltd.,
'Kalki Buildings'
47, NP Jawaharlal Nehru Road,
Ekkaduthangal, Chennai – 600 032. ... Petitioner

Vs

The Commercial Tax Officer,
Guindy Assessment Circle,
46, Chamiers Road,
Chennai – 600 028. ... Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of writ of Mandamus directing the respondent to refund the entry tax of Rs.25,49,235/- paid by the petitioner.

For Petitioner : Mr.C.Subamanian
For Respondent : Mr.G.Nanmaran
Special Government Pleader

O R D E R

(Order of the Court was made by Dr.ANITA SUMANTH,J.)

The request for mandamus as set out in this Writ Petition is not liable to be acceded to. The petitioner prays for a refund of entry tax paid by it in terms of the provisions of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 1990 (in short 'Act') on the ground that at the point in time when payment had been effected, the Act had been declared to be unconstitutional by this Court.

2. However, in a subsequent judgment of the Hon'ble Supreme Court in the case of *Jindal Stainless Ltd. V. State of Haryana* (AIR 2016 SC 5617), the validity of the Act has been upheld and in light of that judgment, the plea that no entry tax is payable by the petitioner cannot be countenanced.

3. At this juncture, learned counsel for the petitioner would pursue a tangential line of argument stating that the petitioner limits its prayer to a refund of the differential amount of entry tax and sales tax remitted, to the extent to which the entry tax is in excess of the sales tax. If that be so, it is more appropriate for the authorities to consider such request, as the facts and figures in relation to the payments would have to be collated and considered.

4. The petitioner is hence granted liberty to make a representation before the authorities and representation, if any, received by the authorities within a period of two (2) weeks from date of receipt of a copy of this order, shall be disposed, in accordance with law and taking into account the decisions in the case of *State of Tamil Nadu V. Ganesh Automobiles* ((2004) 134 STC 272, *Khivraj Motors Limited V. Assistant Commissioner (CT), Fast Track Assessment Circle III, Chennai* (W.A.Nos.3201 to 3204 of 2004 dated

04.02.2010), *Commercial Tax Officer, Peelamedu South Assessment Circle V. Coimbatore Auto carage (P) Ltd.* ((2011) 45 VST 69 (Mad.)) and *Hindustan Motors Ltd. V. The State of Tamil Nadu and others* (W.P.Nos.1656 of 1996 etc. batch dated 28.03.2024), within a period of four (4) weeks from date of receipt of representation, after hearing the petitioner.

5. This Writ Petition is disposed in the aforesaid terms. No costs.

(A.S.M.,J) (G.A.M.,J)
09.08.2024

Index:Yes
Speaking order
Neutral Citation: Yes
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To

The Commercial Tax Officer,
Guindy Assessment Circle,
46, Chamiers Road,
Chennai – 600 028.

DR. ANITA SUMANTH,J.
and
MR. G.ARUL MURUGAN,J.

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