IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM :
THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.Nos.13075 & 13076 of 2006

M/s.GTP Granites Ltd. Rep. by its Director, A.Jayasingh No.4/36, Bharathi Street Swarnapuri, Salem – 636 004.	..	Petitioner in W.P.No.13075 of 2006
M/s.Ashok Granites Ltd. Rep. by its Director, D.Krishnan No.4/35, Bharathi Street Swarnapuri, Salem – 636 004.	..	Petitioner in W.P.No.13076 of 2006

Vs.

1. The State of Tamil Nadu
   Rep. by its Secretary to Government
   Department of Commercial Taxes &
   Religious Endowment
   Fort St. George, Chennai – 600 009.

2. The Commercial Tax Officer
   Swarnapuri Assessment Circle
   Salem – 636 004. .. Respondents in both W.Ps

Common Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of declaration, declaring Section 3(3) of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1998 as null and void in respect of mobile hydraulic crane purchased by the petitioner from outside the State insofar as the petitioner is concerned.

For the Petitioners in both W.Ps	:	Mr.K.R.Krishnan
For the Respondents in both W.Ps	:	Mr.C.Harsha Raj Additional Government Pleader (Tax)

COMMON ORDER
(Made by the Hon'ble Chief Justice)

Heard Mr.K.R.Krishnan, learned counsel for the petitioners and Mr.C.Harsha Raj, learned Additional Government Pleader (Tax) for the respondents.

2. These writ petitions are filed challenging the entry tax levied on the mobile cranes purchased by the petitioners.

3. According to the petitioners, mobile crane is not a motor vehicle, as defined under the Motor Vehicles Act, 1988. Learned counsel for the petitioners pointed out the judgment of the Division Bench of this Court in the case of *Rds Projects Ltd. vs. Commercial Tax Officer, Chennai*[1] dated 02.11.2006, wherein, it was held that Volvo Hydraulic Excavator is not a motor vehicle.

1 (2007) 8 VST 574

4. It has been observed that an excavator is mounted on iron plates made into chain such as caterpillar vehicles or military tanks. Such an excavator is used for excavating the earth and loading in lorries and it cannot be used on public roads, since the roads would get damaged by the chains. The excavator moves around only in work sites and it is not suitable or adapted for use in public roads and as such, having regard to the distinguishing features, the same cannot be held to be a motor vehicle within the definition of "Motor Vehicle" under Section 2(28) of the Motor Vehicles Act, 1988.

5. The mobile crane also does not run on road. It is used for lifting of the objects or excavating the earth and the works of similar nature. The mobile crane also would not be within the realm of the definition of "Motor Vehicle" under Section 2(28) of the Act of 1988.

6. In the light of that, the present petitions succeed. A mobile crane is not a motor vehicle. The impugned orders passed by the respondents, imposing the entry tax and penalty, as such, stand

quashed and are set aside.

7. These writ petitions, accordingly, stand allowed and are disposed of. There shall be no orders as to costs. Consequently, W.P.M.P.Nos.14663 and 14664 of 2006 are closed.

(S.V.G., CJ.) (J.S.N.P., J.)

08.04.2024

Index : Yes/No
Neutral Citation : Yes/No

drm

To

1. The Secretary to Government
   The State of Tamil Nadu
   Department of Commercial Taxes &
   Religious Endowment
   Fort St. George, Chennai – 600 009.

2. The Commercial Tax Officer
   Swarnapuri Assessment Circle
   Salem – 636 004.

THE HON'BLE CHIEF JUSTICE
AND
J.SATHYA NARAYANA PRASAD, J.

(drm)

W.P.Nos.13075 & 13076 of 2006

08.04.2024