



WEB COPY

W.P.Nos.25973 & 25974 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM :

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

W.P.Nos.25973 & 25974 of 2007
and
M.P.Nos. 1 & 1 of 2007

Tvl. Dynamic Machines,
Rep. by its Partner,
R.J.Mehta,
14, Elumalai Street,
Temporarily at No.10, Siva Sankaran Street,
Rajaji Nagar, Pallavaram, Chennai – 43.

.. Petitioner
in both writ petitions

VS

1.The State of Tamil Nadu
Rep. by its Special Commissioner &
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai – 600 005.

2.The Registering Authority,
Regional Transport Officer,
Meenambakkam.

.. Respondents
in both writ petitions

Prayer in W.P.No.25973 of 2007 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the second respondent to register under the Motor Vehicles Act, 1988 the Komatsu Motor Grader Model GD 31-3H SL.No.2952 imported from Japan without insisting upon production of a No Objection Certificate from the first respondent department for payment of Entry Tax and issue such further writ, order or direction as this Court may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.25974 of 2007 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the second respondent to register under the Motor Vehicles Act, 1988 the Komatsu Motor Grader Model GD 31-3H SL.No.1640 imported from Japan without insisting upon production of a No Objection Certificate from the



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first respondent department for payment of Entry Tax and issue such further writ, order or direction as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.R.Senniappan (deceased)
No appearance
(in both WPs)

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader
(in both WPs)

COMMON ORDER

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

There is no appearance for the petitioner.

2. The prayer is for a mandamus directing the Regional Transport Officer to register Komatsu Motor Grader Model GD 31-3H SL.No.2952 & Komastu Motor Grader Model GD 31-3H SL.No.1640 both imported from Japan without insisting upon the production of a No Objection Certificate from the first respondent.

3. The basis of these writ petitions is that the provisions of the Entry Tax Act would not stand attracted in cases of import of vehicles from outside the Country.

4. Mr.Harsha Raj, learned Additional Government Pleader, appearing for the official respondents rightly submits that the issue is covered by a judgment of the Hon'ble Supreme Court in the case of *State of Kerala and others v Fr. William Fernandez etc* [2017 SCC OnLine SC 1291] and *V.Krishnamurthy v State of Tamil Nadu Rep by its Secretary to Government* [2019 SCC OnLine Mad 8523].



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5. That apart, Section 19 of the Entry Tax Act places a restraint stating that notwithstanding anything contained in any other law for the time being in force, where the liability to pay tax in respect of a motor vehicle arises under this Act and such motor vehicle is required to be registered in the State under the Motor Vehicles Act, 1988, no registering officer shall register any such motor vehicle, unless payment of such tax has been made by the person concerned in respect of such vehicle.

6. In light of the above discussion, mandamus, of the nature as sought, is not liable to be granted and the writ petitions deserve to be dismissed. The petitioners are enjoying an interim injunction till date, which is vacated. The respondents are hence at liberty to proceed in accordance with law, if they so believe necessary, strictly within a period of four weeks from date of receipt of this order by issuance of notice, further proceedings to be completed within a period of 12 weeks from date of issuance of notice, or not at all.

7. These writ petitions are dismissed with the liberty as above. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [G.A.M., J]
18.09.2024

Index:Yes/No
Neutral Citation:Yes
ssm



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To

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- 1.The Special Commissioner &
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