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.No.28732 of 2007
and
M.P.No.1 of 2007

Tvl. Viking Warehousing
No.5, G.N.T.Road,
Moolakadai,
Chennai – 600 110.
Rep. by its Partner,
Mr.Yagnesh R. Thakkar .. Petitioner

vs

The Commercial Tax Officer,
Manali Assessment Circle,
Kuralagam Annexure,
First Floor,
Chennai – 600 018. .. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the respondent dated 14.03.2007 in TNGST No. 1083497 passed under Sec. 8/9 of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 and quash the same.

For Petitioner : No appearance

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

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

There is no appearance for the petitioner.

2. Heard Mr.Harsha Raj, learned Additional Government Pleader, for the official respondent.

3. The challenge is to an order of assessment passed under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 (Entry Tax Act).

4. The subject-matter of assessment is a gantry crane ('crane'). There was an inspection in the premises of the petitioner by the officers of the Enforcement Wing. In the course of the inspection, the authorities noticed that three cranes had been purchased by the petitioner, in respect of which, no entry tax had been paid.

5. Subsequent correspondences revealed that two of the cranes had been purchased prior to 11.01.1999 when there was no liability to entry tax in respect thereof. Hence, those cranes were taken out of the zone of consideration.

6. However, the authority was of the view that as far as crane purchased on 29.01.2001 is concerned, it attracts liability in terms of Notification No.11(2)a/CT/11(1-2)99 G.O. No.6 dated 12.01.1999 (Notification) that stipulated the rate of Entry Tax on heavy earth moving machineries and road rollers at 9% which was enhanced to 13% from 03.04.2002.

7. The assessing authority thus issued notice on 24.11.2006 proposing levy of Entry Tax in respect of crane purchased on 29.01.2001 along with penalty under Section 15(1) of the Entry Tax Act. In response dated 01.12.2006, the petitioner put forth the view that the crane had

been purchased locally and hence there was no liability to Entry Tax, undertaking to furnish relevant documents in support of its stand.

8. The impugned order of assessment has come to be passed on 14.03.2007, the assessing authority having granted more than three months time to the petitioner to furnish the documents as undertaken by them. There is no indication that the petitioner has filed the documents as the affidavit filed in support of writ petition does not state anywhere that the requisite documents were filed.

9. In such circumstances, we find no cause to intervene in the impugned order of assessment, particularly in light of there being an efficacious remedy of appeal. Liberty is thus granted to the petitioner to file an appeal, in accordance with law. To make it clear, appeal, if filed within a period of two weeks from date of receipt of this order along with requisite pre-deposit and compliance with all other statutory conditions, will be taken on file by the appellate authority and disposed in accordance with law, after hearing the petitioner. It is made clear that if the liberty, as granted aforesaid, is not availed, the matter comes to rest at this stage.

10. Writ petition is dismissed, though with liberty. No costs. Connected miscellaneous petition is closed.

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

Index:Yes/No
Neutral Citation:Yes
ssm

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

ssm

To
The Commercial Tax Officer,
Manali Assessment Circle,
Kuralagam Annexure,
First Floor,Chennai – 600 018.

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