IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.08.2024

CORAM

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

W.P.Nos.15674 to 15676 and 16751 of 2008
& M.P.Nos.2 of 2008 (4 Nos.)

Associated Suppliers
rep. by its Partner
Suhail Ahmed Ashraf,
237, Thalayattam Bazaar
Santhapet, Guidyatham – 632 602
Vellore District.

... Petitioner in W.P.No.15674 of 2008

United Trading Co.
rep. by its Partner
A.Hafeezur Rahman
51, Thalayattam Bazaar
Santhapet, Guidyatham – 632 602
Vellore District.

... Petitioner in W.P.No.15675 of 2008

Aroma Trading Co.
rep. by its Partner
C.Rayees Ahmed
38, Goodanagaram Road
Santhapet, Guidyatham – 632 602
Vellore District.

... Petitioner in W.P.No.15676 of 2008

Auro Food Private Ltd.,
rep. by its Managing Partner
Mr.N.Bipin Patel

S/o Mani Bhai Patel,
Tindivanam Pondy Main Road,
Pullichappallam, T.C.Balam Post,
Vanur Taluk, Tindivanam. ... Petitioner in W.P.No.16751 of 2008

Vs

1. The Deputy Commercial Tax Officer (West),
   Guidyatham, Vellore District.

2. The Commissioner of Commercial Tax,
   Chepauk, Chennai – 600 005.

... Respondents in W.P.Nos.15674 to 15676 of 2008

1. The Deputy Commercial Tax Officer (West),
   Tindivanam

2. The Commissioner of Commercial Tax,
   Chepauk, Chennai – 600 005.

3. The Deputy Commercial Tax Officer (CT),
   Vellore.

4. The State of Tamil Nadu
   rep. by its Secretary to Government,
   Commercial Taxes & Religious
   Endowment Department,
   Fort St. George, Chennai – 600 005.

... Respondents in W.P.No.16751 of 2008

COMMON PRAYER in W.P.Nos.15674 to 15676 of 2008: PETITIONS filed under Article 226 of the Constitution of India seeking issuance of Writs of Certiorarified Mandamus to call for the records of the 1st respondent dated 28.04.2008 in RC.A4.3959,3958,4000 /2007 and quash the same and consequently direct the respondent to refund the entry tax paid under protest by the petitioners on the interstate purchasers of tobacco between the period from 1.3.2003 and 31.3.2007.

PRAYER in W.P.No.16751 of 2008: PETITION filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari to call for the records of the 3rd respondent dated 19.03.2008 in Letter No.RC No.A1/12285/07 and quash the same.

In all W.Ps.
For Petitioner : Ms.Gopika
for M/s.McGan Law Firm

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

COMMON ORDER

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

Heard Ms.Gopika, learned counsel for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate for the respondents.

2. The petitioners have challenged orders dated 28.04.2008 and 19.03.2008, wherein their applications for refund relating to Entry Tax under the provisions of the Tamil Nadu Tax on Entry of Motor Vehicles in the Local Areas Act, 1990 ('Act') have been kept in abeyance till such time the challenge to the constitutional validity of the Act was decided by the Hon'ble Supreme Court.

3. Pending these Writ Petitions, the issue in regard to constitutionality of Entry Tax enactments has been decided in *Jindal Stainless Ltd. V. State of*

Haryana (AIR 2016 SC 5617). The aspect of discrimination under Article 304A of the Constitution of India has been referred to the Division Benches of the High Courts for their decision.

4. Since the Assessing Authority has himself, in the present matters, stated that the requests for refund would be considered as and when the judgment of the Hon'ble Supreme Court is pronounced, the prayer of the petitioners stands moulded to a mandamus and the Commercial Tax Officer, Gudiyatham (West) (W.P.Nos.15674 to 15676 of 2008) and Commercial Tax Officer, Tindivanam (W.P.No.16751 of 2008), (collectively referred to as 'Assessing authorities') who are stated to be the Assessing authorities at present, are directed to consider the applications of the petitioners seeking refund and pass orders after hearing them.

5. For the aforesaid purpose, the petitioners will appear before the Assessing Authorities on 19.08.2024 at 12.00 noon without awaiting any further notices in this regard. The Assessing authorities shall grant audience to the petitioners, hear them, consider materials, if any, placed for consideration by them and pass orders on the refund applications, in accordance with law, within a period of four (4) weeks from 19.08.2024.

6. These Writ Petitions are disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

(A.S.M.,J) (G.A.M.,J)
12.08.2024

Index:Yes/No
Speaking order
Neutral Citation: Yes
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To

1. The Deputy Commercial Tax Officer (West),
   Guidyatham, Vellore District.

2. The Commissioner of Commercial Tax,
   Chepauk, Chennai – 600 005.

3. The Deputy Commercial Tax Officer (West),
   Tindivanam

4. The Commissioner of Commercial Tax,
   Chepauk, Chennai – 600 005.

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   Vellore.

6. The State of Tamil Nadu
   rep. by its Secretary to Government,
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   Endowment Department,
   Fort St. George, Chennai – 600 005.

<u>Dr.ANITA SUMANTH,J.</u>
<u>AND</u>
<u>Mr.G.ARUL MURUGAN,J.</u>

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<u>W.P.Nos.15674 to 15676 and 16751 of 2008</u>
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<u>12.08.2024</u>