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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2024

CORAM :

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

W.P.Nos. 30244, 30255 & 30256 of 2003

W.P.No.30244 of 2003

M/s.Anamallais Agencies
Rep. by its Partner,
P.K.Duraisamy,No.12-15, Nehru Stadium,
Coimbatore – 641 018. ..Petitioner

vs

The Commercial Tax Officer,
P.N.Palayam Circle,
Coimbatore. .. Respondent

W.P.No.30255 of 2003

M/s.Rajashree Automotives (P) Ltd.,
Rep. by its Manager Accounts,
V.Perumal,
No.338, Avinashi Road,
Coimbatore – 641 004. .. Petitioner

vs

The Commercial Tax Officer,
Avinashi Road Assessment Circle,
Coimbatore. .. Respondent

W.P.No.30256 of 2003

M/s. Rajashree Automotives (P) Ltd.,
Rep. by its Manager Accounts,
V.Perumal,
No.338, Avinashi Road,
Coimbatore – 641 004. .. Petitioner

vs

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The Commercial Tax Officer,
Avinashi Road Assessment Circle,
Coimbatore. .. Respondent

Prayer in W.P.No.30244 of 2003 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of the respondent herein in his proceedings in TNGST No. 309995/1994-1995 dated 07.10.2003 and quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.4,47,293/- to the petitioner herein relating to the assessment year 1994 – 1995.

Prayer in W.P.No.30255 of 2003 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of the respondent herein in his proceedings in TNGST No. 1780954/1998-1999 dated 06.10.2003 and quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.7,88,293/- to the petitioner herein relating to the assessment year 1998 – 1999.

Prayer in W.P.No.30256 of 2003 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records on the file of the respondent herein in his proceedings in TNGST No. 1780954/1999-2000 dated 06.10.2003 and quash the same and direct the respondent herein to refund the excess amount of entry tax of Rs.2,17,813/- to the petitioner herein relating to the assessment year 1999 - 2000.

For Petitioner : Mr.Mr.S.Rajasekar
(in all writ petitions)

For Respondent : Mr.TNC.Kaushik
Additional Government Pleader
(in all writ petitions)

COMMON ORDER

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

Heard Mr.S.Rajasekar, learned counsel appearing for petitioner and Mr.TNC.Kaushik, learned Additional Government Pleader appearing for respondent.

2. Petitioners are dealers in motor vehicles and spare parts, and seek a quash of order dated 07.10.2003 (in W.P.No.30244 of 2003) and 06.10.2003 (in W.P.Nos. 30255 & 30256 of 2003) passed under the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 (Act) and to refund the excess amount of entry tax of a sum of Rs.4.47 lakhs, Rs.7.88 lakhs and Rs.2.17 lakh (approx) in respective writ petitions for the period 1994 – 1995, 1998 - 1999 & 1999 – 2000.

3. Both learned counsel would bring to our attention the following decisions [(i) State of Tamil Nadu v Ganesh Automobiles [(2004) 134 STC 272, (ii) Khivaraj Motors Limited v Assistant Commissionr (CT), Chennai and anr [W.A.Nos. 3201 to 3204 of 2004 dt 04.02.2010] and (iii) Commercial Tax Officer v Coimbatore Auto Garaga (P) Ltd [(2001) 45 VST 69] referring to the mandate of Section 4 of the Act.

4. In addition, a recent decision of this Court considered the similar issue in the case of *M/s.Hindustan Motors Ltd v The State of Tamil Nadu, Rep. by its Secretary to Government, Commercial Taxes and Religious Endowments Department, Fort St.George, Madras and others* [W.P.No.1656 of 1996 and etc batch dt. 28.03.2024].

5. In light of the above, the same order is taken to be passed in these writ petitions as well, and while not interfering with the impugned

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orders, petitioners are permitted to make representations seeking refund upon consideration of which, order will be passed / refunds will be issued, within a period of four weeks from date of receipt of representation, in accordance with law and in line with the principles of natural justice.

6. These writ petitions stand disposed in terms of this order. No costs.

[A.S.M., J] [G.A.M., J]
28.10.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

1.The Commercial Tax Officer,
P.N.Palayam Circle,
Coimbatore.

2.The Commercial Tax Officer,
Avinashi Road Assessment Circle,
Coimbatore.

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

ssm

W.P.Nos. 30244, 30255 & 30256 of 2003

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