IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2024

CORAM :

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

W.P.Nos.32119, 35597, 35598, 35599, 35600, 32398, 32399, 30250, 30251, 35591, 35592, 35593, 35594, 35595, 33865, 33866, 33867 & 33868 of 2003

W.P.No.32119 of 2003

M/s.The Anamallais Retreading Corporation,
Rep. by its Chief Executive,
N.Shanmugasundaram,
No.104, Anna Salai,
Guindy,
Chennai – 600 032. .. Petitioner

vs

The Deputy Commercial Tax Officer,
Saidapet Assessment Circle,
No.3, Tank Square Street,
Saidapet,
Chennai – 600 015. .. Respondent

Prayer in W.P.No.32119 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 in his proceedings in T/6220025/1998-99 dated 17.10.2003 and quash the same and consequently direct the respondent herein to refund the excess amount of entry tax of Rs.17,54,318/- to the petitioner herein relating to the Assessment Year 1998 – 1999 under the TNGST Act, 1959.

For Petitioners : Mr.S.Rajasekar
(in all WPs)

For Respondents : Mr.V.Prashanth Kiran
Government Advocate
(in all WPs)

COMMON ORDER

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

Both Mr.S.Rajasekar, learned counsel appearing for petitioner and Mr.V.Prashanth Kiran, learned Government Advocate, appearing for official respondents would submit that the issue raised in these writ petitions is squarely covered by a decision of this Court in W.P.No.22569 of 2007 dated 09.08.2024, wherein, following the ratio of several decisions held as follows:

> *'The request for mandamus as set out in this Writ Petition is not liable to be acceded to. The petitioner prays for a refund of entry tax paid by it in terms of the provisions of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 1990 (in short 'Act') on the ground that at the point in time when payment had been effected, the Act had been declared to be unconstitutional by this Court.*
>
> *2. However, in a subsequent judgment of the Hon'ble Supreme Court in the case of Jindal Stainless Ltd. V. State of Haryana (AIR 2016 SC 5617), the validity of the Act has been upheld and in light of that judgment, the plea that no entry tax is payable by the petitioner cannot be countenanced.*
>
> *3. At this juncture, learned counsel for the petitioner would pursue a tangential line of argument stating that the petitioner limits its prayer to a refund of the differential amount of entry tax and sales tax remitted, to the extent to which the entry tax is in excess of the sales tax. If that be so, it is more appropriate for the authorities to consider such request, as the facts and figures in relation to the payments would have to be collated and considered.*
>
> *4. The petitioner is hence granted liberty to make a representation before the authorities and representation, if any, received by the authorities within a period of two (2) weeks from date of receipt of a copy of this order, shall be disposed,*

in accordance with law and taking into account the decisions in the case of State of Tamil Nadu V. Ganesh Automobiles ((2004) 134 STC 272, Khivraj Motors Limited V. Assistant Commissioner (CT), Fast Track Assessment Circle III, Chennai (W.A.Nos.3201 to 3204 of 2004 dated 04.02.2010), Commercial Tax Officer, Peelamedu South Assessment Circle V. Coimbatore Auto carage (P) Ltd. ((2011) 45 VST 69 (Mad.)) and Hindustan Motors Ltd. V. The State of Tamil Nadu and others (W.P.Nos.1656 of 1996 etc. batch dated 28.03.2024), within a period of four (4) weeks from date of receipt of representation, after hearing the petitioner.

5. This Writ Petition is disposed in the aforesaid terms. No costs.'

2. In light of the identity in issue in the present writ petitions, the same order is taken to be passed in all these writ petitions as well. The writ petitions stand disposed. No costs.

[A.S.M., J]　　[G.A.M., J]
16.08.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

The Deputy Commercial Tax Officer,
Saidapet Assessment Circle,
No.3, Tank Square Street,
Saidapet,
Chennai – 600 015.

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

ssm

W.P.Nos.32119, 35597, 35598, 35599, 35600, 32398, 32399, 30250, 30251, 35591, 35592, 35593, 35594, 35595, 33865, 33866, 33867 & 33868 of 2003

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