IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2024

CORAM :

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

W.P.Nos. 7584 of 2008 & 10888 of 2006
and WPMP No.12348 of 2006

M/s. ABT Ltd.,
Rep. by its Chief Executive,
N.Shanmugasundaram
No.10/14-15, Kalingarayan Street,
Ram Nagar,
Coimbatore - 641 009. .. Petitioner in both WPs

vs

1.State of Tamil Nadu
Rep. by its Secretary to Government,
Commercial Taxes & Registration Department,
Fort St.George, Chennai - 600 009.

2.The Special Commissioner & Commissioner of
Commercial Taxes, Chepauk,
Chennai - 600 005.

3.The Commercial Tax Officer,
Ram Nagar Assessment Circle,
Coimbatore. .. Respondents in both WPs

Prayer in W.P.No.7584 of 2008 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records on the file of the 3rd respondent in his proceedings in Entry Tax No.01/1998-99 dated 10.03.2008 quash the same.

Prayer in W.P.No.10888 of 2006 : 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 first respondent in his letter No.

20895/C2/2005-4 dated 29.3.2006 quash the same and further direct the first respondent to re-consider the decision for the grant of exemption in respect of sales made to Canteen Stores Department by the petitioner as per G.O.Ps.No.209 dated 29.6.1993 as per the petitioner's representation dated 19.9.2005.

For Petitioner	:	Mr.S.Rajasekar in both WPs
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate in both WPs

COMMON ORDER

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

In W.P.No.10888 of 2006, the challenge is to a communication dated 29.03.2006, rejecting the request contained in representation dated 19.09.2005.

2. In W.P.No.7584 of 2008 the challenge is to a show-cause notice dated 10.08.2008.

3. The petitioner is engaged in the import of vehicles and for the year 1999 – 2000, had claimed exemption from entry tax under the provisions of the Tamil Nadu Tax of Entry on Motor Vehicles into Local Areas Act, 1990, (in short, 'Act') in respect of sales that had been made through the Canteen Stores Department.

4. The stand taken by the respondent is based on G.O. Ps.No.209 dated 29.06.1993 wherein the Government, in exercise of powers conferred under Section 12 of the Act, has exempted the Canteen Stores Department from the payment of entry tax on purchase and sales

of vehicles for supply to personnel in defence services.

5. The petitioner believes that it is entitled to the same exemption as above, as the imported vehicles are for supply to defence personnel too. Hence a reprentation was made by it on 2.6.01 seeking the same benefit from the State.

6. Pending that representation, the Special Commissioner and Commissioner of Commercial Taxes issued a communication to the concerned Commercial Tax Officers instructing them to keep in abeyance the issue of exemption for the periods 1998 - 99 and 1999 - 00.

7. While so, vide G.O.Ms.No.55, Commercial Taxes (C2) Department dated 06.05.2005, the request of the petitioner has been accepted, though with effect from the date of Notification only. This Notification has been accepted by the petitioner, in that there is no challenge to the same.

8. A further representation was made by the petitioner on 19.09.2005 seeking retrospective application of the aforesaid G.O and the same has come to be rejected on 29.03.2006, which is the subject-matter of challenge in one writ petition, being WP.No.10888 of 2006.

9. The petitioner believes that it has a legitimate expectation that it would be granted the same benefit as had been extended to Canteen Stores. Thus, the grant of exemption prospectively is, according to it, incorrect.

10. We decline to intervene in order dated 29.03.2006 for multiple reasons. Firstly, that order conveys a policy decision of the

Government to extend exemption to supplies with effect from a particular period, and such decision would fall wholly within the domain of the State. Secondly, there is no challenge to the Notification itself, under which the date of exemption has been stipulated. In such circumstances, there can be no challenge to the communication under which the representation has been rejected as such rejection is based on the Notification and the effective date thereof. Thirdly, there has been no perversity pointed out to us in the Notification itself or in the choice of date of implementation.

11. For the aforesaid reasons, W.P.No.10888 of 2006 is bereft of merit and is dismissed.

12. Coming to W.P.No.7584 of 2008, the challenge is only to a show-cause notice and we believe the same to be pre-mature. Hence, liberty is granted to the petitioner to respond to the same within a period of four weeks from date of receipt of a copy of this order.

13. The authority shall thereafter hear the petitioner and pass orders on the proposals contained in notice dated 10.03.2008, in accordance with law and within a period of four weeks from date of personal hearing. Let the entire exercise shall be completed within an outer time limit of twelve weeks from date of receipt of this order. No costs. Connected WPMP is closed.

[A.S.M., J] [G.A.M., J]
14.08.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

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

ssm

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