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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2024

CORAM :

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

W.P.Nos.2133 & 1841 of 2010
and MP.Nos.2 & 2 of 2010

M/s.Shri Baalaaji Steel Rolling Mill,
Rep. by its Partner – R.Vasuki,
No.19/1, Pachapalayam Road,
Perur Chettipalayam,
Coimbatore-641 010. ... Petitioner in WP.2133 of 2010

M/s.Shri Baalaaji Steel Rolling Mill,
Rep. by its Managing Partner – M.Ravichandhiran,
No.19/1, Pachapalayam Road,
Perur Chettipalayam,
Coimbatore-641 010. ... Petitioner in WP.1841 of 2010

vs

The Assistant Commissioner (CT),
Perur Assessment Circle,
Perur, Coimbatore. .. Respondent in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the Respondent in his order in TIN 33181922193/08-09 and TIN 33181922193/09-10 dated 16.11.2009 respectively, quash the same.

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(In both WPs)

For Petitioners : Mr.S.Rajasekar

For Respondent: Ms.Amirtha Dinakaran
Government Advocate

COMMON ORDER

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

Read this order in continuation of and in conjunction with order dated 28.10.2024, where the issue arising in these writ petitions has been crystalised in the first paragraph.

2.Learned Government Advocate circulates Circular bearing No.MM2/8697/2007 dated 03.10.2007 reads as follows:

'MM2/8697/2007

Office of the
Commissioner of Commercial Taxes,
Chepauk, Chennai-5
Dated:3.10.2007

Circular

Sub: Tamil Nadu Tax on Entry of Goods into Local Areas Act 2001 – Levy held not valid – Judgment of the High Court of Madras dated 22.3.2007 – Instructions – Certain – issued.

Ref: Judgment of the High Court of Madras in WA 1320, 1321/06 and Writ Petition 12553/02 filed by Tvl.ITC Limited, dated 22.3.2007.

....

The High Court of Madras in the decision cited held that the levy of entry tax on the goods imported from other

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States to the State of Tamil Nadu and from other countries is not compensatory in nature and the Act is violative of Article 301 of the Constitution. The High Court set aside the levy and quashed the demand notices. Operative portion of the above decision has already been communicated to all Deputy Commissioners for necessary action and the same has been reported in (2007) 7 VST 367 (Mad).

The above decision of the Division bench of the Madras High Court has not been accepted by the Government and Special Leave Petition has been filed in the Supreme Court.

Meanwhile the Supreme Court of India in another case in Civil Appeal No.3453/2002 dt. 17.4.07 in its interim order pointed out that the High Court's orders, wherever it has been passed in favour of the tax payers, shall operate so far as the concerned Writ Petitioners are concerned.

On 05.09.2007 our Special Leave Petitions Nos.15082 to 15085/2007 with stay prayer came up for hearing before the Supreme Court. Pending Supreme Court orders on the stay prayer, and in view of the further individual Writ Petitions filed by the dealers being disposed of by the Madras High Court following the decision rendered in the reference cited, the following instructions are issued in respect of Entry Tax on Goods.

....

....

6.Set off of entry tax paid may be allowed in full against tax, surcharge and additional tax under TNGST/TNVAT Acts.

....

The Joint Commissioners/Deputy Commissioners are requested to issue suitable instructions to all the officers under their control.

The receipt of the circular may be acknowledged early.

Sd/- T.Jacob.
Commissioner of Commercial Taxes.'

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3.In view of the same, the impugned orders dated 16.11.2009 are quashed and the respondents are directed to give effect to the provisions of Section 4 of the Entry Tax Act in full.

4.Both writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.

[A.S.M., J] [G.A.M., J]
08.11.2024

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

To

The Assistant Commissioner (CT),
Perur Assessment Circle,
Perur,
Coimbatore.

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

vs

W.P.Nos.2133 & 1841 of 2010
and MP.Nos.2 & 2 of 2010

08.11.2024