IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2025

CORAM

THE HONOURABLE DR JUSTICE ANITA SUMANTH
AND
THE HONOURABLE MRS JUSTICE R. HEMALATHA

WP No. 26659 of 2007 and
MP.No.1 of 2007

1. M/s. International Tractors
Ltd., G.N.T. Road, Madhavaram, Chennai-60

Petitioner(s)

Vs

1. The State Of Tamil Nadu
Rep.By The Secretary To Govt. Commercial
Taxes And Religious Endowments Dept., Fort
St. George, Chennai-9

2.The Commercial Tax Officer
Manali Assessment Circle, Chennai

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that section 2(d), Section 2(g) and Section 3 the Tamilnadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 in so far as it relates to Tractor as ultra vires Articles 14, 19(1)(a), 19(1)(g), 301, 304 (a) and 304 (b) of the Constitution of India and therefore unenforceable and of no effect in so far as the petitioner herein is concerned and further direct the second respondent to refund the entry tax paid by the petitioner

For Petitioner(s): M/s K.J.Chandran

For Respondent(s): Mr. Haja Naziruddin, AAG Assisted By Mr. V. Prashanth Kiran GA For Respondents

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

The prayer in this writ petition is for a writ of Declaration that Sections 2(d), 2(g) and 3 of the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990 ('Entry Tax Act'), insofar as it relates to Tractors is ultra vires, Articles 14 and 19 as well as Articles 301, 304(a) and 304(b) of the Constitution of India.

2.The writ petition had come up for admission on 09.08.2007 when the petitioner secured an interim injunction that was operational for a period of four (4) weeks. The records do not indicate that this interim protection has been extended thereafter.

3. The writ petition per the docket sheet has not come up for hearing till 04.02.2025 when the matter was listed before us. In the meantime, the assessing authority has woken up from a 17 year long slumber and has issued notice on 20.11.2024 which the writ petitioner denies receipt of.

4. Based on the notice issued in November 2024, the assessing authority completes the assessment on 10.02.2025 confirming the pre-assessment proposals under notice dated 27.02.2007. Inter alia, the assessing authority notes that the dealers had been provided with an opportunity of personal hearing, but did not care to respond. To be noted that in response

to the pre-assessment notice dated 27.02.2007, the writ petitioner had filed objections along with supporting documents on 27.03.2007.

5.Both learned counsel would fairly accede to the position that the plea of Declaration is liable to be rejected insofar as the issues relating to Constitutionality of the Entry Tax Act have been considered and decided in the case of *Jindal Stainless Limited and Others v. State of Haryana and Another* [(2017) 12 SCC 1].

6.Coming to the order now passed on 10.02.2025, we express our displeasure in the manner in which the present proceedings have been concluded. Firstly, the assessing officer ought not to have tarried for 17 years seeing as the pre-assessment proposals were issued as early as on 27.02.2007. The assessee is also seen to have co-operated in the proceedings insofar as, on 27.03.2007, objections have been filed with supporting materials. It was hence necessary that the officer had completed the assessment in a timely fashion, particularly, since there was no interim protection circumscribing such action.

7. The interim injunction granted on 09.08.2007 was only, after all, for a period of four (4) weeks, not extended thereafter. The trigger for the proceedings having been taken up in November 2004, according to the parties is that similar matters had come up on that date when, perhaps, the authorities had woken up to the pendency of these proceedings.

8. That apart, the notice dated 20.11.2024 merely calls for objections to be filed within 15 days and extends an opportunity of personal hearing within the same 15 days without stipulating a specific date or time of hearing. As held by us in several matters, this is not the

proper manner by which opportunity for personal hearing or, for receipt of objections, must be extended. It is necessary for the Officer to stipulate a specific date and time for the same. For the aforesaid reasons, we express the view that the order of assessment dated 10.02.2025 has not been passed in a proper manner, apart from being contrary to the provisions of natural justice.

9. Faced with this position, the Department has issued written instructions to the effect that order dated 20.10.2025 is withdrawn and the proceedings are now at large before the officer.

10. In light of the dismissal of the writ petition, let the proceedings for assessment continue and be concluded expeditiously. In order to enable the same, the petitioner will appear before R2/Commercial Tax Officer, Manali Assessment Circle, Chennai on 17.03.2025 at 12.00 noon without awaiting any further notice from the officer. The assessee shall be accompanied by all necessary documents/materials in support of the pre-assessment proposals in the notices issued on 27.02.2007 and notice dated 20.11.2024, a copy of which has been handed over to Mr.Raveendran for onward transmission to the assessee.

11. Liberty is also granted to the assessee to file written submissions taking note of intervening events as well as relevant case law. After hearing the petitioner, orders shall be passed in accordance with law within a period of four (4) weeks from date of personal hearing, i.e. on or before 15.04.2025. The plea for declaration is rejected and relief as aforesaid is granted.

12. This writ petition is disposed in terms of this order. No costs. Connected miscellaneous petition is closed.

[A.S.M.,J.] **[R.H.,J.]**
03-03-2025

vs
Index:No
Speaking order
Neutral Citation:Yes

To

1.The State Of Tamil Nadu
Rep.By The Secretary To Govt. Commercial Taxes And Religious Endowments Dept., Fort St. George, Chennai-9

2.The Commercial Tax Officer
Manali Assessment Circle, Chennai

Dr.ANITA SUMANTH J.
AND
R.HEMALATHA J.

vs

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