

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18385 of 2012 &
M.P.No.1 of 2012

C.Joseph Vijay

... Petitioner

Vs.

1.The State of Tamilnadu

Rep. By its Secretary, Home Department (Transport),
Fort St.George, Chennai -9.

2.The Assistant Commissioner (CT),
Assessment Circle,
Chennai.

3.The Regional Transport Officer,
Chennai South, Chennai.

4.The Motor Vehicle Inspector,
Chennai South, Chennai.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, forbearing the respondents and their subordinates from demanding or collecting entry tax on the petitioner's imported new Rolls Royce Ghost Motor Car Vehicle bearing chassis number SCA664S07CUH16754, and Engine number 90430224, to be registered and assign new registration mark by the 3rd and 4th respondents.

For Petitioner : Mr.S.Kumaresan
For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

The lis on hand is instituted, seeking the relief to forbear the respondents and their subordinates from demanding or collecting entry tax on the petitioner's imported new Rolls Royce Ghost Motor Car Vehicle bearing chassis number SCA664S07CUH16754, and Engine number 90430224, to be registered and assign new registration mark by the 3rd and 4th respondents.

2. The petitioner states that he imported a new Rolls Royce Ghost Motor Car Vehicle bearing chassis number SCA664S07CUH16754, and Engine number 90430224 from England. He paid the import duty to the Customs Department as levied under the Customs Act. The vehicle has to be registered with the office of the Regional Transport Officer, Chennai South, Chennai / 3rd respondent. The petitioner approached the respondents 3 and 4 to assign new Registration mark for his vehicle and the respondents 3 and 4 had stated that the petitioner has to obtain certificate from the second

respondent / The Assistant Commissioner (CT), Assessment Circle, Chennai, stating that no Entry tax is payable. The second respondent informed the petitioner that the Entry tax should be paid for the vehicle and on payment of Entry tax, certificate will be issued. The petitioner contends that extraordinary Entry tax on imported vehicle is imposed. The vehicle of the petitioner is lying idle and the vehicle could not be operated on Public roads unless the vehicle is duly registered. Under those circumstances, the petitioner approached this Hon'ble Court.

3. The petitioner has stated that he imported the new Rolls Royce Ghost Motor Car from England. But the petitioner has not even revealed his occupation. However, the learned counsel for the petitioner contended that the petitioner is a reputed Cine Actor and he has imported the said new Rolls Royce Ghost Motor Car from England for his usage. It is surprised to note that the petitioner has not even stated his profession or occupation in his affidavit. The affidavit is blank in respect of these particulars.

4. The petitioner has imported a prestigious costly Car from England. But, unfortunately not paid the Entry tax as per the Statutes. He filed a writ petition in order to avoid payment of Entry tax for the Car imported from England. The petitioner, who is a reputed Cine Actor, is expected to pay the tax promptly and punctually.

5. The system of taxation is the backbone of our Nation's Economy, which keeps Revenue consistent, manages growth in the economy and fuels its industrial activity etc. Tax is mandatory contribution and not a voluntary payment or donation, which one decides on one's own.

6. The Tax collected from the Government is to carryout the functions such as social welfare projects like Schools, Hospitals, Housing Projects for the Poor etc., and infrastructure such as Road Projects, Flyovers, Railways, Ports, etc. Security infrastructure of our great Nation, Enforcement of Law and Order, Pensions for elders, Benefit scheme to the unemployed and the citizen living below poverty lines.

7. The petitioner / Actor having large scale fan groups and those fans are seeing the Actors as real heroes. In the State of Tamil Nadu, Cine Heroes rosed as rulers of the State and therefore, the people are under the impression that they are the real heroes. Thus, they are not expected to behave like a reel heroes. Tax evasion is to be construed as anti-national habit, attitude and mindset and unconstitutional.

8. These Actors are portraying themselves as champion to bring the social justice in the society. Their pictures are against corrupt activities in the society. But, they are evading tax and acting in a manner, which is not in consonance with the provisions of the Statutes.

9. The Constitutional goal of social justice in the Preamble of the Constitution and the Spirit of Article 38(2) can be achieved, only if people of such stature pay the tax punctually and act as real heroes in their life. Person paying tax punctually and promptly is to be considered as a real hero. Article 38 Sub Clause 2 enumerates that "*The State shall, in particular, strive to minimise the inequalities in income, and endeavour to*

eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations". The noble perspective of the Constitution under the Directive principles can be achieved only if the people of such stature, rich, unhesitatingly pays the tax to the Government and comply with the Laws of the Land. Filing a writ petition, avoiding payment of Entry tax and keeping the writ petition pending for about nine years, can never be appreciated and it is not made clear even now, whether the Entry tax as applicable has been paid by the petitioner or not. On account of efflux of time, the learned counsel for the petitioner also has not stated anything regarding this.

10. The common man are motivated and encouraged to behave as a lawful citizen and pay tax and to thrive hard to achieve social justice in the society. If the rich, affluent and reputed persons fails to pay the tax as applicable, then this Court with pain, records that it would be a long way to achieve the constitutional goals.

11. Even philosophically, accumulation of wealth or possessing the world's prestigious Car, Rolls Royce would not be of any assistance for a better life in our great Nation, as our country is enriched with culture and social values. Thus, this Court is of the considered opinion that the non-payment of Entry tax by the petitioner, can never be appreciated and the petitioner has not respected nor responded to the lakhs and lakhs of his fans, who has paid by viewing his movies and from and out of such money, the petitioner / Actor purchased the world's prestigious car for his personal usage. The reputed persons of this great Nation should realize that the money reaches to them is from the poor mans blood and from their hard-earned money and not from the sky.

12. This Court made this observation with a fond hope that the petitioner and the similarly placed citizen of this great Nation, pay their taxes in accordance with law and make our Nation proud, so as to reach the Constitutional goal of social justice, eliminate inequalities, economic status etc.,

13. As far as the issues in the writ petition are concerned, it is no more *res-integra* and the Hon'ble Supreme Court of India in the case of ***State of Kerala and others vs. Fr. William Fernandez Etc., reported in 2018 (57) GSTR 6***, ruled that the respondents are competent to collect Entry Tax and therefore, the petitioner herein is also liable to pay the Entry Tax as per the claim made.

14. In this view of the matter, the petitioner is bound to pay the Entry tax for the Rolls Royce Ghost Motor Car Vehicle bearing chassis number SCA664S07CUH16754, and Engine number 90430224, which is imported from England. Accordingly, the petitioner is directed to pay the Entry tax as demanded by the respondents within a period of two weeks from the date of receipt of a copy of this order, by adjusting 20% of Entry tax as ordered by this Court in the interim order dated 17.07.2012, if already paid. In the absence of payment of Entry tax by the petitioner within a period of two weeks, the respondents are directed to initiate all further actions by following the procedures as contemplated under the Statutes for recovery of the Entry tax from the petitioner as well as the consequential liability, if

any, as per the provisions of the Act and the Rules.

15. In fine, the Writ Petition in W.P.No.18385 of 2012 stands dismissed with a cost of Rs.1,00,000/- (Rupees One Lakh only), which is to be paid to the Tamil Nadu Chief Minister's Covid-19 Public Relief Fund, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Registry is directed to list the matter 'For Reporting Compliance' on 28.07.2021.

08.07.2021

Speaking order/Non-speaking order
Index : Yes/No
Internet: Yes/No
Pns/Kak

To

- 1.The Secretary,
Home Department (Transport),
Fort St.George, Chennai -9.
- 2.The Assistant Commissioner (CT),
Assessment Circle, Chennai.

3.The Regional Transport Officer,
Chennai South, Chennai.

4.The Motor Vehicle Inspector,
Chennai South, Chennai.

S.M.SUBRAMANIAM,J.

Pns/Kak

W.P.No.18385 of 2012

08.07.2021