(2011) 03 MAD CK 0597

In the Madras High Court

Case No : Writ Petition No''s. 5004 and 5005 of 2011

T.V.L. Syhims Granites — APPELLANT

Vs

The Assistant Commissioner (CT) — RESPONDENT

Date of Decision : 03-03-2011

Acts Referred:
Constitution of India, 1950 — Article 301, 304

Citation : (2011) 03 MAD CK 0597

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : R. Senniappan, for the Appellant; K. Radhakrishnan, Government Advocate (Taxes), for the Respondent

Final Decision : Allowed

Judgement

M. Jaichandren, J.—The learned Counsel appearing for the Petitioner had submitted that in view of the order of the Division Bench of this Court in ITC Limited Vs. The State of Tamil Nadu,), the assessment orders have to be set aside and the matters have to be remitted back to the Respondent for fresh consideration.

2. Mr. K. Radhakrishnan, the learned Government Advocate (Taxes) appearing on behalf of the Respondent has no objection for this Court passing such an order.

3. The Division Bench of this Court, in ITC Limited v. State of Tamil Nadu and Anr. reported in (2007) 7 VST 367, had held as follows:

... We hold that the levy of entry tax on goods imported from other States to the State of Tamil Nadu and from abroad is not compensatory in nature, since the State Government could not discharge its burden by placing materials before the court that payment of levy of entry tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the tax payers. The impugned levy imposing entry tax being discriminatory is also violative of Article 304(a) of the Constitution. We, therefore, hold that the demand and collection of entry tax under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 is illegal, unauthorised and violative of Article 301 of the Constitution. The writ petitions are allowed as above and the levy and demand notices issued would stand quashed.

4. In view of the submissions made by the learned Counsels appearing for the parties concerned and in view of the order of the Division Bench cited supra, the assessment orders, dated 24.1.2011, are set aside and the matters are remitted back to the concerned authority, for fresh consideration, in accordance with law. The order of the Division Bench, cited supra, has to be kept in view, by the authority concerned before the assessments are finalised.

5. The writ petitions are disposed of, with the above directions. No costs. Consequently, connected M.P. Nos. 1 and 1 of 2011, are closed.