

ITEM NO.102

COURT NO.11

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 9253/2010

ANGAMMAL EDUCATIONAL TRUST

Appellant(s)

VERSUS

STATE OF TAMIL NADU REP. BY ITS SECRETARY & ANR.

Respondent(s)

(AT THE TOP)

WITH

C.A. No. 9272/2010 (XII)

C.A. No. 9302/2010 (XII)

C.A. No. 9269/2010 (XII)

C.A. No. 9304/2010 (XII)

C.A. No. 9301/2010 (XII)

C.A. No. 9303/2010 (XII)

C.A. No. 9307/2010 (XII)

C.A. No. 9310/2010 (XII)

C.A. No. 9309/2010 (XII)

C.A. No. 9311/2010 (XII)

C.A. No. 9306/2010 (XII)

C.A. No. 9305/2010 (XII)

C.A. No. 9308/2010 (XII)

C.A. No. 9300/2010 (XII)

C.A. No. 9262/2010 (XII)

C.A. No. 9277/2010 (XII)

C.A. No. 9279/2010 (XII)

C.A. No. 9280/2010 (XII)

C.A. No. 9278/2010 (XII)

C.A. No. 9284/2010 (XII)

C.A. No. 9294/2010 (XII)

C.A. No. 9295/2010 (XII)

C.A. No. 9297/2010 (XII)

C.A. No. 9296/2010 (XII)
C.A. No. 9299/2010 (XII)
C.A. No. 9285/2010 (XII)
C.A. No. 9281/2010 (XII)
C.A. No. 9283/2010 (XII)
C.A. No. 9276/2010 (XII)
C.A. No. 9287/2010 (XII)
C.A. No. 9298/2010 (XII)
C.A. No. 9293/2010 (XII)
C.A. No. 9291/2010 (XII)
C.A. No. 9270/2010 (XII)
C.A. No. 9275/2010 (XII)
C.A. No. 9289/2010 (XII)
C.A. No. 9292/2010 (XII)
C.A. No. 9288/2010 (XII)
C.A. No. 9290/2010 (XII)
C.A. No. 9267/2010 (XII)
C.A. No. 9268/2010 (XII)
C.A. No. 9266/2010 (XII)
C.A. No. 9255/2010 (XII)
C.A. No. 9265/2010 (XII)
C.A. No. 9264/2010 (XII)
C.A. No. 9256/2010 (XII)
C.A. No. 9263/2010 (XII)
C.A. No. 9260/2010 (XII)
C.A. No. 9259/2010 (XII)
C.A. No. 9274/2010 (XII)
C.A. No. 9261/2010 (XII)
C.A. No. 9258/2010 (XII)
C.A. No. 9273/2010 (XII)
C.A. No. 9254/2010 (XII)
C.A. No. 9257/2010 (XII)
C.A. No. 9271/2010 (XII)

Date : 12-10-2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

For Appellant(s)

Ms. V.Mohana, Sr. Adv.
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Mr. Nikhil Nayyar, AOR

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Ms. Revathy Raghavan, AOR

For Respondent(s)

Mr. B. Balaji, AOR

Mr. T. Harish Kumar, AOR

Mr. A. N. Arora, AOR

UPON hearing the counsel the Court made the following

O R D E R

The present batch of appeals raises a challenge to the Amendment (Act 13 of 2003) of The Tamil Nadu Motor Vehicles Taxation Act, 1974 by which Motor Vehicles Tax on buses that are used by educational institutions has been increased from a flat figure of Rs. 500/- per quarter to Rs. 150/- per seat per quarter. The effect of the raise, therefore, in percentage terms is between 450% and 1800%.

Ms. V.Mohana, learned senior counsel appearing on behalf of the appellant, has pointed out that the educational institutions appearing before us include a number of nursery schools, special schools for mentally and physically challenged children, dumb and

deaf children, blind children etc. These schools have vehicles-buses and vans of their own to bring students to such schools from far off places. She has pointed out that in most of these institutions free education is provided, and that the impugned judgment dated 15.11.2006 of the High Court of Madras stating that this was not the case is not correct.

It has also been pointed out that Section 3(2) of the Tamil Nadu Motor Vehicles Taxation Act, 1974, while empowering the Government, by notification, to increase the rate of tax specified in the Schedules to the Act provides that such increase by notification shall not in the aggregate exceed 50% of the rate so specified in any of the said Schedules. She has argued that the Amendment Act flies in the face of the principle of the said proviso, which is that arbitrary increases in tax should not be resorted to. According to her, it is obvious that on facts unequals are being treated as equals and that insofar as the appellant institutions are concerned, there would be a violation of the equality clause of the Constitution.

We feel that it would be in the fitness of things if the State of Tamil Nadu were to examine these cases separately and differently from other cases involving payment of motor vehicles tax. We have been informed that the present batch of appeals only relates to three years, namely, 2003 to 2006, and that when the tax was decreased in 2006 to Rs. 100 per person per bus, the appellants have thereafter paid motor vehicles tax at the said rate. Ms.

Mohana has also made a fervent plea before us that it would be well nigh impossible for the institutions before us now to collect amounts by way of tax that may be charged at this exorbitant rate for these three years, especially having regard to the fact that payments at the earlier rate of Rs. 500 per bus per quarter has in fact, been made in all these three years. This being the factual scenario, we would request Mr. Subramonium Prasad, learned Additional Advocate General, to look into these matters personally and advise the Government to exempt, as a one time measure, these educational institutions from payment of tax at the higher rate.

The matters to come up after eight weeks.

(SHASHI SAREEN)
AR CUM PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER