IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE T.RAJA

T.C. (R) NO. 26 OF 2015

The State of Tamil Nadu
rep. by the Deputy Commissioner (CT)
(now redesignated as
Joint Commissioner (CT))
Vellore Division, Vellore. .. Petitioner

- Vs -

Tvl. M.A. Khizar Hussain & Sons
No.91, M.B.T. Road
Ranipet. .. Respondent

Revision filed under Section 38 of the Tamil Nadu General Sales Tax Act against the order dated 18.10.2010 passed by the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, made in STA No.53/2007 against the order passed by the Commercial Tax Officer (FAC) Ranipet dated 30.10.2006 in A.P.No.4/06/07 TNGST 4280001/04-05 which was filed against the order passed by the Appellate Assistant Commissioner (CT) Vellore dated 26.7.2006 in A.P.No.98/06 in A.P.No.98/2006 against the assessment order passed by the Commercial Tax Officer (SMR) (FAC) O/o. the Joint Commissioner (CT) Vellore (CT) Division , Vellore-1 in proceedings in TNGST No.4280001/2004-2005 dated 14.3.2006.

For Petitioner : Mr. Mr. Manohar Sundaram, AGP (Taxes)

ORDER

(DELIVERED BY R.SUDHAKAR, J.)

Aggrieved by the order of the Tribunal in dismissing the appeal filed by it, the appellant/Revenue is before this Court by filing the present appeal.

2. The respondent assessee is engaged in the business of tanners and exporters of leather goods and the assessment order relatable to the present case is for the period 2004-2005. The Assessing Officer noticed that the assessee had purchased chemicals at concessional rate of tax against Form XVII Declaration, but found

that there was no manufacturing activity involved and, therefore, the respondent was not eligible for concessional rate of 3% and, therefore, the assessing authority levied tax on the purchase turnover of goods under Section 3 (4) of the Tamil Nadu General Sales Tax Act. Against the said assessment, the assessee preferred an appeal to the Appellate Assistant Commissioner, who allowed the appeal in favour of the assessee. Aggrieved against the same, the Department preferred further appeal to the Tribunal. The Tribunal, following the judgment of this Court in Golden Leathers - Vs - Secretary, TNSTAT (2010 (35) VST 216 (Mad.)) dismissed the appeal against which the Department has preferred the present appeal.

3. In this appeal, the following questions of law have been framed for consideration :-

> "i) Whether the Tribunal has committed a grave procedural error in having overlooked the judgments of Supreme Court in the case of A.Hajee Abdul Shukuoor & Co. - Vs - State of Madras reported in 15 STC 719 and in the case of State of Tamil Nadu - Vs - Mahi Traders & Ors. reported in 73 STC 228 admittedly cited on behalf of the Revenue in para 6 of the impugned judgment?
>
> ii) Whether the order of Tribunal is perverse in its factual finding that process involved in the conversion of wet blue leather (also known as tanned leather or semi finished leather) into finished leather amount to manufacture by overlooking the factual findings regarding the process underwent in the conversion of raw hides and skins into dressed hides and skins as approved in the case of Hajee Abdul Shukuoor & Co. - Vs - State of Madras reported in 15 STC 719 and in the case of State of Tamil Nadu - Vs - Mahi Traders & Ors. reported in 73 STC 228?
>
> iii) Whether the Tribunal has correctly appreciated and applied the principles laid down by Supreme Court in the decisions relied upon in the impugned judgment to the facts of the present case in as much as wet blue leather does not admittedly constitute a raw material for manufacture of finished leather?
>
> iv) Whether the order of the Tribunal is perverse in as much as the processes which the wet blue leather is subjected to would not alter but retain the essential characteristics as leather despite undergoing mere physical or chemical changes not amounting to transformation into a new and distinct commercial commodity?"

4. Though very many questions of law have been raised, as above, for consideration, in both the appeals, the main ground raised in the appeal is only in relation to the liability to tax in

terms of sub-section (4) of Section 3 of the Tamil Nadu General Sales Tax Act.

5. However, at the time of admission, learned Addl. Government Pleader (Taxes) fairly concedes that the issue for consideration as to whether conversion of semi-finished leather amounts to manufacture has already been considered by this Court in the decision reported in Golden Leathers - Vs - Secretary, TNSTAT (2010 (35) VST 216 (Mad.)) and submits that the case on hand is squarely covered by the decision in Golden Leathers case (supra).

6. In view of the said statement made by the learned Addl. Government Pleader (Taxes) that the ratio laid down in Golden Leathers case (supra), is equally applicable to the case on hand, following the said ratio, this tax case revision is also liable to be dismissed.

7. Accordingly, no question of law, much less substantial question of law arises for consideration in this revision and, accordingly this revision is therefore, dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

GLN

To

1. The Deputy Commissioner (CT)
(now redesignated as
Joint Commissioner (CT))
Government of Tamil Nadu
Vellore Division, Vellore.

2. The Tamil Nadu Sales Tax
Appellate Tribunal (Main Bench)
Chennai.

3. The Commercial Tax Officer (FAC) Ranipet

4. The Appellate Assistant Commissioner (CT)
Vellore

1 cc to Spl.Government Pleader, (Taxes), Sr. 17048

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