IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

Tax Case (Revision) Nos.46 and 47 of 2015

Elgi Equipments Limited,
Trichy Road, Singanallur,
Coimbatore. ...Petitioner in both T.C.s

versus

The State of Tamil Nadu
Represented by the
Assistant Commissioner (CT)
Fast Track Assessment Circle – II,
Coimbatore. ...Respondent in both T.Cs

PRAYER: Tax Case Revision filed under Section 38 of the Tamil Nadu General Sales Tax Act, 1959 as against the order dated 11.09.2014 made in C.T.A.Nos.46 and 59 of 2008 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Addl. Bench), Coimbatore, preferred against the orders of Appellate Deputy Commissioner (CT), Coimbatore in (i) AP No. 06/08 (TNGST - 2004 - 05) dated 30.06.2008 and (ii) AP No. 05/08 (CST 2004-2005) dated 29.07.2008 against the orders of Assistant Commissioner (CT), Fast Track Asst. Circle I, Coimbatore in (i) TNGST 1880011/2004-2005 and (ii) CST 299456/2004-2005 dated 07.01.2008 respectively.

For Petitioner : Mr.Parthasarathy
for M/s.N.Inbarajan

For Respondent : Mr.ANR.Jayaprathap, G.A.(Tax)

C O M M O N O R D E R
(Order of the Court was made by R.SUDHAKAR,J.)

The above Tax Case (Revisions) are filed by the assessee as against the order dated 11.09.2014 made in C.T.A.Nos.46 and 59 of 2008 on the file of the Tamil Nadu Sales Tax Appellate Tribunal

(Addl. Bench), Coimbatore.

2. The brief facts of the case are as follows:

The petitioner/assessee is a public limited company engaged in the business of manufacturing compressors, garage equipments etc. For the assessment year 2004-05, the assessee effected sales of their products to the Government department. Since the assessee could not obtain the relevant statutory declaration forms, which is required to avail the concessional rate of tax, the Assessing Authority denied the concessional levy and demanded higher rate of tax. Aggrieved by the said assessment order, the assessee filed appeals before the Appellate Assistant Commissioner, before whom, the assessee had filed certain declaration forms. Hence, the Appellate Assistant Commissioner, set aside the assessment to the extent the assessee filed statutory declaration forms and confirmed the assessment in respect of the balance amount. As against the same, the assessee pursued the matter once again before the Tribunal. The Tribunal, after hearing both sides and after perusing the necessary records, passed the following order:

> "It is not the case of the appellant-dealer that the declaration forms and certificates filed in respect of the sustained portion was refused to admit by the ld.Appellate Deputy Commissioner. Even at the stage of second appeal, the appellant-dealer has failed to produce any declaration forms and certificates in support of his contention. The question of exemption would arise only on the production of the declaration forms and certificates within the prescribed time. Though, the Commissioner's clarification would bind on the Assessing Authority, this appellate forum may admit such declaration forms and certificates, if the dealer would not procure the same at the time of assessment despite his best efforts for the purpose of pronouncing explicit judgment. Mere filing a letter before the Assessing Authority on 11.5.2010 would not come to the aid of the appellant-dealer that his claim was within the prescribed time.
>
> In view of the fact that no copy of the declaration forms and certificates has been produced before this forum within the stipulated time, the appellant-dealer is not entitled to claim any exemption based on the Commissioner's clarification and therefore the appeal of the dealer must fail."

3. Aggrieved by the above-said order of the Tribunal, the assessee is before this Court in these Tax Case (Revisions).

4. Heard learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials placed before this Court.

5. It is seen from the orders of the Authorities below that the assessee had failed to produce the statutory declaration forms before all the three authorities. In order to obtain concessional levy, the assessee had to produce necessary declaration forms. When the assessee had not produced any declaration forms before the lower Authorities as well as before the Tribunal, they are not entitled to claim any exemption.

6. Having failed to avail the opportunity before the Authorities below by filing the necessary statutory declaration forms to avail the concessional levy, we find no justification to interfere with the order of the Tribunal. Accordingly, both the Tax Case (Revisions) stand dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sl

To

1. The Tamil Nadu Sales Tax Appellate Tribunal (Addl. Bench), Coimbatore

2. The Appellant Deputy Commissioner (CT) Coimbatore - 18.

3. The Assistant Commissioner (CT) The State of Tamil Nadu Fast Track Assessment Circle – II, Coimbatore.

1 CC to M/s.N.Inbarajan, Advocate SR.No. 31398
1 CC to the Government Pleader, SR.No. 31573

Tax Case (Revision) Nos.46 and 47 of 2015

KV (CO)
PSI (14.07.2015)