IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE R.KARUPPIAH

Writ Petition Nos.4234 and 4235 of 2015
& M.P.Nos.1,1 and 2 of 2015

M/s.G.H.Induction India Pvt. Ltd.,
rep. By its Authorized signatory - R.V.Chari
DP No.145-147 & 158-160
12th Main Road, SIDCO Industrial Estate,
Thirumudivakkam,
Chennai - 600 044.

... Petitioner in both W.Ps

versus

1. The State of Tamil Nadu
represented by the Secretary,
Commercial Taxes and Registration Department
Fort St. George, Chennai - 600 009.

2. The Assistant Commissioner (CT) (FAC)
Thirumudivakkam Assessment Circle,
No.32 & 33, Sripuram 2nd Street,
Chennai - 600 044.

... Respondent in both W.Ps

PRAYER: W.P.No.4234 of 2015 filed under Article 226 of The Constitution of India praying for the issuance of Writ of Declaration to declare Section 2(11) of the Tamil Nadu Value Added Tax Act, 2006 as discriminatory and ultravires the Constitution of India and violative of Articles 14,301,303 and 304 of Part XIII of the Constitution of India, in so far as it postulates the condition of capital goods being used "in the State" for the purpose of levy of tax @ 4%.

W.P.No.4235 of 2015 filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the file of the 2nd respondent in its impugned proceedings made in TIN:33590884698/14-15 dated 23.1.2015 quash the same.

For Petitioner : Ms.R.Hemalatha (in both Wps)

For Respondents : Mr.V.Haribabu, AGP (in both Wps)

C O M M O N O R D E R

(Made by R.SUDHAKAR,J.)

W.P.No.4234 of 2015 is filed for Writ of Declaration to declare Section 2(11) of the Tamil Nadu Value Added Tax Act, 2006 as discriminatory and ultravires the Constitution of India and violative of Articles 14,301,303 and 304 of Part XIII of the Constitution of India, in so far as it postulates the condition of capital goods being used "in the State" for the purpose of levy of tax @ 4%. and W.P.No.4235 of 2015 is filed for issuance of Writ of Certiorari to quash the proceedings made in TIN:33590884698/14-15 dated 23.1.2015.

2. It now transpires from the submission of the learned counsel appearing for the petitioner that the assessee is willing to pursue the matter relating to the order under challenge before the appellate forum and as a consequence, they are not pursuing the Writ Petition challenging the vires of Section 2(11) of the Tamil Nadu Value Added Tax Act, 2006.

3. Taking note of the above situation, both the Writ Petitions are dismissed giving liberty to the petitioner to file an appeal in accordance with provisions of the Act. No costs. Consequently, M.P.Nos.1,1 and 2 of 2015 are also dismissed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

GLN

To

1. The Secretary,
The State of Tamil Nadu
Commercial Taxes and Registration Department
Fort St. George, Chennai - 600 009.

2. The Assistant Commissioner (CT) (FAC)
Thirumudivakkam Assessment Circle,
No.32 & 33, Sripuram 2nd Street,
Chennai - 600 044.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.9361
+1cc to the Special Government Pleader, S.R.No.9096

Writ Petition Nos.4234 and 4235 of 2015
& M.P.Nos.1,1 and 2 of 2015

KJI(CO)
CA(04/03/2015)