IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2015

Coram

The Honourable Mr.Justice R.SUDHAKAR
and
The Honourable Mr.Justice R.KARUPPIAH

Tax Case (Revision) No.102 of 2009

The State of Tamil Nadu
rep. By the Deputy Commissioner
(Commercial Taxes)
Coimbatore Division
Coimbatore ...Petitioner

-vs-

Tvl.B.J.Print
533, Avanashi Road,
Tirupur. ...Respondent

Tax Case Revision filed under Section 38(1) of TNGST Act, 1959 to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal, Additional Bench, Coimbatore dated 16.07.2002 passed in CTSA.No.607/2001.

against the Order of the Additional Appellate Assistant Commissioner (CT), Pollachi, dated 22.12.2000 made in Appeal No.613/2000 against the assessment Order of the Deputy Commercial Tax Officer, Tiruppur North Circle, Tiruppur dated 16.8.00 made in TNGST Assessment NO.284539/94-95.

For Petitioner : Mr.Manoharan Sundaram, Spl.G.P.
For Respondent : Mr.Manoj for Mr.K.Vaitheeswaran

O R D E R

(Order of the Court was made by R.SUDHAKAR, J.)

This Tax Case (Revision) filed by the Revenue as against the order of the Sales Tax Appellate Tribunal relating to the assessment year 1994-95 was admitted by this Court on the following substantial question of law:

"Whether in the facts and circumstances of the case, the Tribunal is legally correct in holding that there is no transfer of property involved in the use of dyes in works contract of dyeing and hence not assessable under Section 3-B of the Tamil Nadu General Sales Tax Act, 1959?"

2. Learned Special Government Pleader (Taxes) appearing for the Revenue/petitioner placed before us the unreported decision of this Court dated 1.7.2011 passed in T.C.(R) Nos. 842, 817, 818, 819 to 823, 826, 841, 843, 849, 850, 870, 982, 987, 990, 1036, 1038 and 1040 of 2006, wherein identical question of law was raised. In the said revision, while following the decisions reported in RAINBOW COLOUR LAB AND ANOTHER v. STATE OF MADHYA PRADESH AND OTHER [2000] 118 STC 9 and ASSOCIATED CEMENT COMPANIES LIMITED v. COMMISSIONER OF CUSTOMS [2001] 124 STC 59, this Court held that after introduction of Section 3-B and after amendment made to the definition of 'sale' under Section 2(n)(ii), the contention raised by the learned counsel for the assessee cannot be accepted, since by the operation of law, the transfer of goods involved in works contract would amount to 'sale' taxable under Section 3-B. The assessee therein had purchased the dyes and chemicals from outside the State. Consequently, this Court held that the entire turnover was assessable to tax.

3. In the circumstances, following the unreported decision of this Court dated 01.07.2011 passed in TC(R).Nos.842/2006 etc batch, this Tax Case Revision is allowed, thereby the order of the Sales Tax Appellate Tribunal stands set aside. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
1.The Tamil Nadu Sales Tax Appellate Tribunal, Additional Bench, Coimbatore.
2.The Additional Appellate Assistant Commissioner(CT)
Pollachi.

3.The Deputy Commercial Tax Officer
Tirupupur North Circle, Tiruppur.

4.The Deputy Commissioner
(Commercial Taxes)
Coimbatore Division, Coimbatore.

1 cc to Spl.Government Pleader,(Taxes)Sr.No.16409/15

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