BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12/6/2015

C O R A M

THE HONOURABLE MR.SANJAY KISHAN KAUL,THE CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Writ Appeal (MD)No.403 of 2011

The State of Tamil Nadu
rep. By The Deputy Commissioner (CT)
Tirunelveli Division
Tirunelveli. ... Appellant

Vs

1. Tvl.Calendar Press
42 B, Velayutham Road
Sivakasi, Virudhunagar District.

2. The Secretary
Sales Tax Appellate Tribunal
(Additional Bench)
Madurai 20. ... Respondents

PRAYER: Appeal filed under Clause 15 of Letter Patent against the order dated 8/6/2007 passed in W.P.(MD) No.3901 of 2004 on the file of this Court.

Prayer in WP(MD). 3901/ 2004 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI to call for the records of the Second respondent the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai relating to its order made in MTSA NO. 343/1999, dated 6.1.2000 and quash the same.

For Appellant ... Mr.Raja Karthikeyan, Spl.G.P

J U D G M E N T

[Judgment of the Court was delivered by
The Honourable the Chief Justice]

The first respondent/assessee in its return for the assessment year 1993 - 94, sought exemption of Rs.2,00,643/- on account of the said amount being the works contract turnover, a claim which was rejected by the Assessing Authority classifying it as a out-right sale under the Tamil Nadu Sales Tax Act.

2. The Assessee appealed before the Appellate Assistant Commissioner, who by an order dated 20/1/1998, remanded the matter back as far as the pending material was concerned, but allowed the same to the extent of the aforesaid amount of Rs.2,00,643/- treating it as works contract.

3. The Revenue, then took up the matter before the Tribunal, the final fact finding authority, which confirmed the order of the Appellate Authority. Now, the Revenue has approached this Court by filing a writ petition that being the third scrutiny.

4. The learned Single Judge dismissed the writ petition vide the impugned order passed in W.P.(MD) No.3901 of 2004 dated 8/6/2007 relying upon the judicial pronouncements of the Honourable Supreme Court in STATE OF TAMIL NADU Vs. ANANDHAM VISWANATHAN AND BUILDERS ASSOCIATION OF INDIA Vs. UNION OF INDIA, 73 STC 1 AND 370, opining that finished product supplied to a particular customer is not a Commercial commodity in the sense that it cannot be sold in the open market to any other person, the transaction is only a works contract. It is to be noted that as per paragraph 4 of the impugned order, this was the only aspect urged before the learned Single Judge.

5. We are now faced with the appeal from the impugned order as the fourth scrutiny level over the order of the assessing authority when there are concurrent findings of the Appellate Authority, the Tribunal and the learned Single Judge on the issue in question.

6. It cannot be seriously disputed by the learned counsel for the Revenue that if the printing is for and in the name of a particular customer, then it is not something which can be sold in the open market. No contra legal position has either been canvassed or any Judgment was shown to us. That being the only question, we cannot permit the learned counsel, as he seeks now to canvass some other aspect. The scope of the matter before this Court cannot be extended at this fourth stage.

7. We are of the view that in the impugned order passed on the settled legal position, as laid by the Honourable Supreme Court, no interference is called for and accordingly, the appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

The Secretary, Sales Tax Appellate Tribunal
(Additional Bench) Madurai 20.

Mvs
SR/KBM : 07.07.2015 : 2p/2c

W.A.(MD) No.403 of 2011
12/6/2015