

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.11291 of 2003

&

WPMP No.14164 of 2003

Tvl.Khader Spinners Limited
Dindigul-2.

...Petitioner

..Vs..

1. The Commercial Tax Officers
Dindigul-2.

2. The State of Tamil Nadu rep. by its
Secretary to Government
Department of Commercial Taxes,
Fort St.George, Chennai 9.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration to declare that the Notification No.II(1)/CTRE/22 (a-6)/97, dated 5.3.1997 issued by the 2nd respondent and the corresponding words, "dealer who does not have any branch transfer (or) consignment transfer outside the state during the year" occurring in its further extended Notification II(1)/ CTRE/43/(d-2)/98, dated 7.4.1998 are ultra vires Articles 14,19(1)(g), 301 and 304 of the Constitution of India.

For Petitioner : No appearance

For Respondents : Mr.K.Venkatesh
Government Advocate

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O R D E R

None appears for the petitioner. Heard Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents.

2.The petitioner has come forward with this Writ Petition, seeking for a declaration to declare that the Notification dated 5.3.1997 issued by the second respondent and the further extended Notification dated 7.4.1998, as ultra vires to the provisions of the Constitution of India.

3.Admittedly, assessment proceedings have been initiated and orders have been passed. Therefore, the petitioner has to necessarily agitate the correctness of the assessment orders and by resorting to the remedies under the Act.

4.It is seen that at the time when the Writ Petition was admitted an order of interim injunction was granted, on condition that the petitioner paying 50% of the differential tax. It is not known as to whether the petitioner has complied with the condition. However, if the petitioner has complied with the said condition, liberty is granted to the petitioner to challenge the assessment order and the payment effected by the petitioner will be subject to the orders to be passed by the competent authority, against the order of assessment.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rpa

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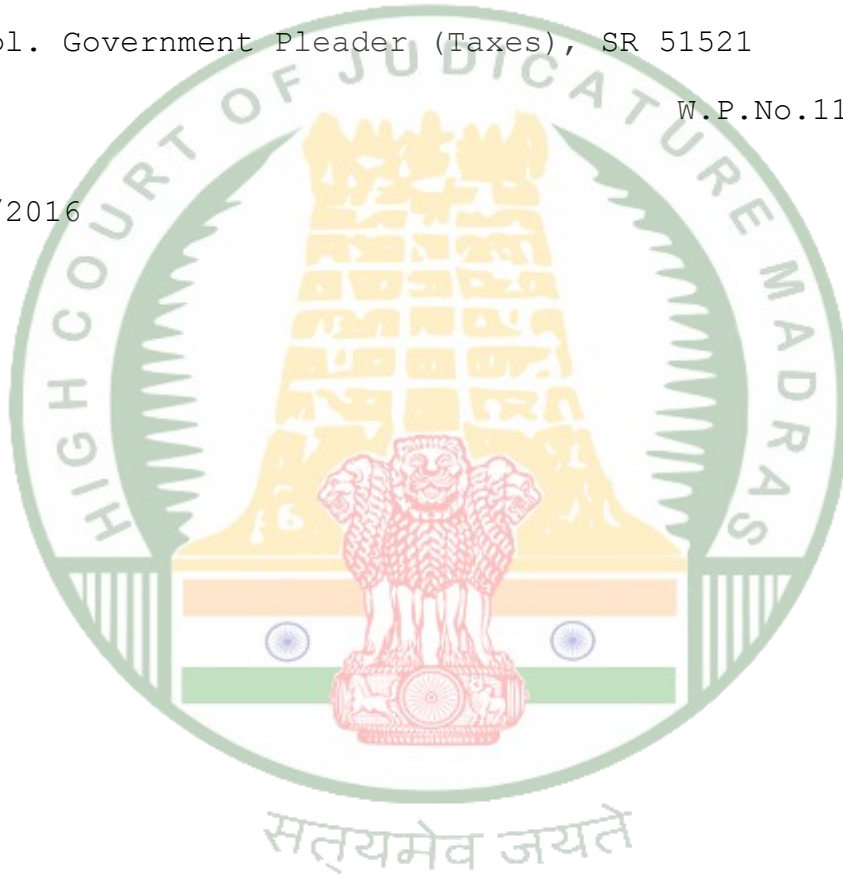
To

1. The Commercial Tax Officers
Dindigul-2.
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Secretary to Government
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1 CC to Spl. Government Pleader (Taxes), SR 51521

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SAI (CO)
PSI 06/10/2016



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