IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Writ Petition No.37682 of 2016

Tvl. MKMS Constructions,
rep. by its Partner Thiru.E.Basheerullah,
No.4/69, Kamaraj Road,
Arakandanallur,
Tirukoilur T.K. - 605 752. .. Petitioner

Vs.

1. The State of Tamil Nadu rep. by
   The Secretary to Government,
   Commercial Taxes Department,
   Fort St. George, Chennai - 600 009.

2. The Appellate Deputy Commissioner (C.T.)
   Cuddalore.

3. The Commercial Tax Officer,
   Tirukoilur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Declaration, declaring that Section 19(11) of the Tamil Nadu Value Added Tax Act, 2006 is inconsistent with the charging Section 3 and the general scheme of annual assessment under Sections 20, 21 and 22 of the said Act and void as being arbitrary and irrational infringing the rights of the Petitioner under Articles 14 and 19(1)(g) and the resultant order denying Input Tax Credit invoking Section 19(11) of the TNVAT Act as violative of Articles 265 and 300 A of the Constitution of India or alternatively declaring that Section 19 (11) of the Tamil Nadu Value Added Tax Act, 2006 is only directory and not mandatory.

For Petitioner : Mr.Adithya Reddy
For Respondents : Mr.Kanmani Annamalai,
Standing Counsel

ORDER

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J)

In this Writ Petition the vires of Section 19(11) of the Tamil Nadu Value Added Tax Act, 2006, is challenged.

2. Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr. Kanmani Annamalai, learned Standing Counsel accepts notice on behalf of the Respondents.

3. Incidentally the same question has been formulated for consideration in the case of USA Agencies vs. Commercial Tax Officer, reported in 2013 (199) ECR 0294 (Madras) and a Division Bench of this Court by its Judgment rendered on 17.07.2013, has upheld the said provision. For the very same reasons which are assigned by the Division Bench of this Court in the above referred Judgment dated 17.07.2013, with which we are in agreement, we uphold the Section 19(11) of Tamil Nadu Value Added Tax Act, 2006.

4. This writ petition deserves to be dismissed and accordingly, it is dismissed at the admission stage. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Copy to:

1. The Secretary to Government,
Commercial Taxes Department,
Fort St. George, Chennai - 600 009.

2. The Appellate Deputy Commissioner (C.T.)
Cuddalore.

3. The Commercial Tax Officer,
Tirukoilur.

+1 CC to Mr.Adithya Reddy, advocate,sr.61878

+1 cc to Spl.Government Pleader,sr.61936

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