IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.09.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.23597 of 2004
and
W.P.M.P.No.28573 of 2004

M/s.Sri Ramakrishna Dyeing Works,
28, Rangai Gounder Street,
R.S.Puram, Coimbatore. ...Petitioner

Vs

The Deputy Commercial Tax Officer,
R.S.Puram (East) Circle,
Coimbatore. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent, in TNGST No.1940020/2001-02, and to quash the order, dated 30.04.2004, passed therein, and further, to direct the respondent to grant deduction in respect of the purchase turnover relating to Dyes and Chemicals in accordance with the judgments of the Tamil Nadu Sales Tax Appellate Tribunal (AB), Coimbatore, in C.T.A.No.222 to 279/02, dated 23.09.2002, in the petitioner's own case.

For Petitioner : Mr.B.Raveendran
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Heard Mr.B.Raveendran, learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) for the respondent.

2. In this Writ Petition, the petitioner has challenged the order of assessment, passed under the provisions of Tamil Nadu General Sales Tax Act, 1959, for the assessment year 2001-02.

3. The learned counsel appearing for the petitioner would fairly submit that, the issue involved in this Writ Petition is squarely covered against the petitioner, in the light of the decision of the Hon'ble Division Bench of this Court, in the case of (State of Tamil Nadu rep. by Deputy Commissioner of Commercial Taxes, Tiruchirappali Division Vs. Tvl. Geetha Dyeing and others) made in T.C.(R) Nos.842, 817, etc., of 2006 (batch), dated 01.07.2011. The Hon'ble Division Bench allowed the Tax Case Revisions, by following the earlier order, in T.C.No.1661 of 2008, dated 25.08.2010. For better reference, the order passed in T.C.(R) Nos.817, 842 etc., of 2006, dated 01.07.2011 is reproduced hereunder:-

> "Learned counsel for the Revenue fairly pointed out that the decision of this Court rendered in T.C.No.1661 of 2008, dated 25.08.2010, would squarely applicable to the cases on hand, wherein, the use of dyeing materials in the course of works contract was considered by this Court.
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> 2. In the said revision, while considering the decisions reported in (Rainbow Colour Lab and another Vs. State of Madhya Pradesh and other) [2001] 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. Thus, the dyes and chemicals used in the execution of works contract would attract levy of tax. The assessee had purchased the dyes and chemicals from outside state. Consequently, this Court held that entire turnover was cancelled. However, as regards levy of penalty, this Court set aside the levy since there was no suppression of sale in the turnover.
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> 3. Following the said decision, the above tax case revisions are allowed, thereby, restoring the order of the Assessing Officer. However, it is made clear that as

regards levy of penalty, the same shall stand deleted following the above stated cases, viz. T.C.No.1661 of 2008.

4. Thus, following the order passed by the Hon'ble Division Bench, in the cases referred above, the present Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sd

To

The Deputy Commercial Tax Officer,
R.S.Puram (East) Circle,
Coimbatore.

+1 CC to Mr. Chandrn Karuppiah, Advocate Sr.No.50919
+1 CC to Spl. Government Pleader, Sr.No.50958

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SV (CO)
MD : 05/10/2016