

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.34113 and 34114 of 2004

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W.P.M.P.Nos.41237 and 41239 of 2004

Tvl.Fluid Power Seals
No.12, 3rd Main Road
Nehru Nagar, Adyar
Chennai - 600 020

... Petitioner in both WPs

Vs.

The Deputy Commercial Tax Officer
Adyar II Assessment Circle
Chennai

... Respondent in both WPs

Prayer: This Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the respondent herein in TNGST/0960444/2000-01 dated 29.09.2004 and quash the same as illegal, unlawful and unconstitutional and direct the respondent to accept Form XVII declarations and grant concessional rate of tax.

For Petitioner : Mr.A.Ravichandran

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.A.Ravichandran, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader for the respondent.

2. The petitioner, who is a registered dealer under the provisions of the erstwhile Tamil Nadu General Sales Tax Act, 1959, has filed this writ petition challenging the Orders of Assessment for the years 2000-01 and 2001-02 dated 29.09.2004 contending that the respondent should have taken note of the legal position that according to second proviso to Section 3(5) of the Tamil Nadu General Sales Tax Act, 1959, the payment of

differential tax in case of misuse of Form XVII declaration lies on the purchasing dealer only and this issue is squarely covered by the decision of the Hon'ble Division Bench of this Court in case of State of Tamil Nadu Vs. Madras Petro Chem Ltd., reported in (1991) 89 STC 438.

3. The learned Additional Government Pleader appearing for the respondent does not dispute the legal position.

Hence, following the decision of the Hon'ble Division Bench, these writ petitions are allowed and the impugned orders dated 29.09.2004 are quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

The Deputy Commercial Tax Officer
Adyar II Assessment Circle
Chennai.

+1cc to the Special Government Pleader Sr.36684

सत्यमेव जयते
W.P.Nos.34113 and 34114 of 2004

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