IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25483 of 2004

M/s.Huzaifa Leather Exports (P) Ltd.,
Rep. By its Managing Director M.Asraf Ali
66,C.A.Hakeem Road
Melvisharam ... Petitioner

vs.

The Commercial Tax Officer
Ranipet Circle
Ranipet ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records of the respondent in his proceedings in CST 353218/2001-02 dated 19.01.2004 and quash the same as illegal.

For Petitioner : Ms.A.Vinu Pradha for Mr.S.Ramanathan

For Respondent : Mr.Manoharan Sundaram Additional Government Pleader

O R D E R

Heard Ms.Vinu Pradha, learned counsel appearing for Mr.S.Ramanathan, learned counsel on record for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader for the respondent.

2. This writ petition has been filed to issue a writ of certiorari to quash the impugned Assessment Order dated 19.01.2004 under the Central Sales Tax Act for the year 2001-02.

3. The petitioner is a registered dealer under the erstwhile Tamil Nadu Valule Added Tax Act as well as the Central Sales Tax Act and for the relevant year, namely 2001-02, they had reported a total and taxable turnover of Rs.5,39,38,649/- and tax implication as "Nil" as they have exported goods prior to the contract. To establish the same, they have produced the Bill of

Lading dated 19.11.2001 against the contract dated 22.11.2001.

4. The respondent treated the transaction as a interstate sales solely on the ground that the goods were exported prior to the date of the contract. The invoices which were subject matter of the transactions with the foreign buyers were Invoice No.137 and Invoice Nos.139 to 147. Only in respect of Invoice No.137 dated 19.11.2001, the respondent Assessing Officer has denied the benefit to the petitioner and treated the same as interstate sales of shoe uppers.

5. Admittedly, even as per the order of the Assessing Officer, 2093 pairs of show uppers have been exported to Italy through Bill of Lading No.072-46795324 dated 19.11.2001 against contract No.3229 dated 22.11.2001. The respondent does not dispute the fact regarding the export of good, but only has rejected the petitioner's contention on the ground that the contract was subsequent to the date on which the Bill of Lading was filed. At this stage, it would be necessary to take note of Section 5(1) of the Central Sales Act. In terms of the above provision, a sale is deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India. As long as the export has not been denied or doubted by the Assessing Officer, the same could not be treated as Interstate sales, that too, for the reasons assigned in the impugned order.

In the light of the above, this writ petition is allowed and the impugned order dated 19.01.2004 is quashed. No costs.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gpa

To

The Commercial Tax Officer
Ranipet Circle
Ranipet

+1 cc to Mr.S.Ramanathan Advocate sr.31194
+1 cc to Special Government pleader High Court,
Madras sr.30849

W.P.No.25483 of 2004

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