

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26368 of 2004

M/s.M.Abdul Samad Sahib Sons
Samad Beedi Manufacturers
rep. By its Managing Partner
S.Abdul Wahid
46, Big Allapuram Street
Vellore 4

... Petitioner

vs.

The Commercial Tax Officer
Vellore (South)
Vellore

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the respondent dated 16.08.2004 in TNGST No.4220134/2002-03 and quash the same.

For Petitioner : Mr.N.Muralikumaran
for M/s.Megan Law Firm

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

सत्यमेव जयते
O R D E R

The petitioner has filed this writ petition challenging the order of penalty proposed to be imposed on the petitioner under the provisions of the Entry Tax Act by invoking the power under Section 5 of the Act.

2. The petitioner challenged the very enactment, namely Section 2 (c), Section 2(g) and Section 3 of the Tamil Nadu Tax on Entry of Goods into Local Area Act, 2001 in W.P.No.18874 stating that the respondent cannot levy or recover Entry Tax on Tobacco imported by the petitioner for use in making beedies. The said writ petition, which was for a writ of declaration, was heard along with the batch of cases by the Hon'ble First Bench

of this Court and the same was allowed by order dated 22.03.2007. In the light of the fact that the declaratory relief having been granted in favour of the petitioner, who also challenges the provisions of the Act, the question of levying penalty on the petitioner does not arise.

In view of the same, this writ petition is allowed and the impugned order dated 16.08.2004 made in TNGST No.4220134/2002-03 is quashed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

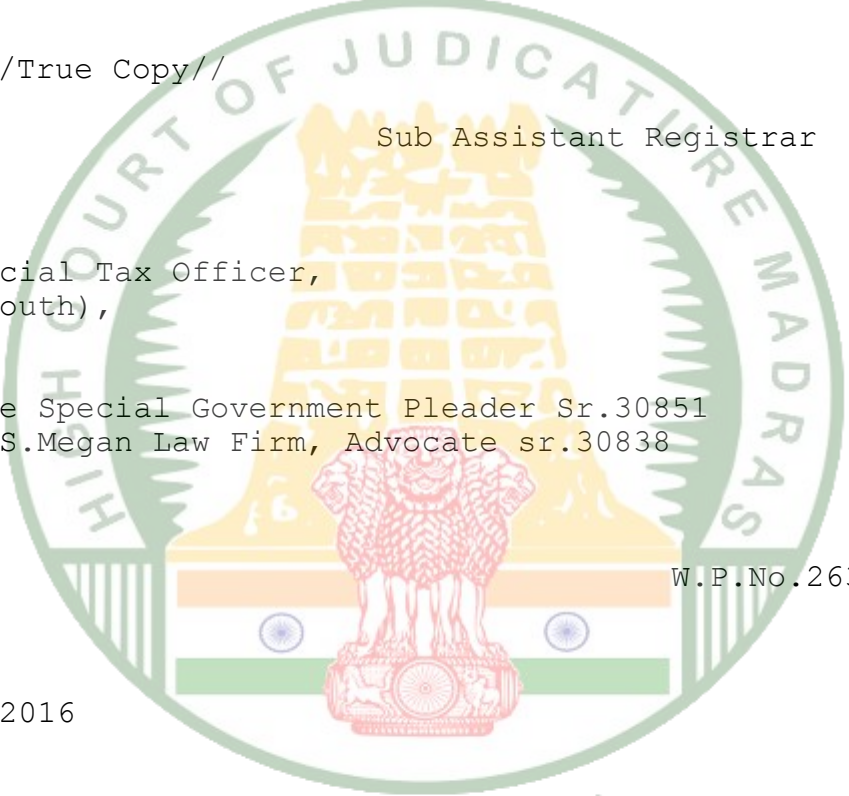
To

The Commercial Tax Officer,
Vellore (South),
Vellore.

+1cc to the Special Government Pleader Sr.30851
+1cc to M/S.Megan Law Firm, Advocate sr.30838

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srg 17/06/2016



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