IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36926 of 2004
and
W.P.M.P.No.44362 of 2004

Adani Wilmar Ltd.,
rep.by its Branch Manager
Mr.V.X.Samuel Selvarajan ... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Secretary,
Department of Religious Endowments & Commercial Taxes
Fort St.George,
Chennai-600 009

2.The Commercial Tax Officer,
Egmore-I Circle,
Chennai 600 008. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Prohibition prohibiting the respondents, their men and agents from levying, collecting Additional Sales Tax from the petitioner on exempted turnover and in excess of the rates applicable for each slab under the Additional Sales Tax, 1970.

For Petitioner : Mr.R.S.Pandiya Vasanthakumar

For Respondents : Mr.Manokaran Sundaram, Addl.Government Pleader

ORDER

Heard Mr.R.S.Pandiya Vasanthakumar, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader for the respondents.

2. The learned counsel on either side submitted that the issue involved in this writ petition is covered by a decision of the Honourable Division Bench of this Court in the case in Gangotri Textiles Ltd., vs. The State of Tamil Nadu,

represented by the Secretary, Department of Religious Endowments and Commercial Taxes (W.P.No.16180 of 2004 etc., batch), dated 17.11.2006.

3. In the decision cited supra, the Honourable Division Bench has considered a similar issue and disposed of the matter issuing the following direction:

> "5. Admittedly, there is an alternative remedy available to the petitioners, that is, by way of appeal or revision. One or other petitioner(s) have already preferred appeal and in some of the cases as informed, the Appellate Authority has already passed orders. In this background we are not inclined to give any finding on merits under Writ Jurisdiction as it is open to the parties to raise all the issues as raised in these cases before the appropriate forum. However, if one or other petitioner has not preferred such appeal within the time or not filed revision application due to pendency of the writ petitions, we allow such petitioners to prefer such appeal against the order of assessment or revision petition against the appellate order within a period of 4 weeks with a petition for condonation of delay. In such cases, the concerned authority will determine the appeal(s) or revision application(s) as it may be, on merits preferably within four months, particularly on the issue as raised in these cases, that is whether the petitioners are liable to pay additional tax on total taxable turnover of the financial year or on the turnover which exceeds ten crores of rupees.
>
> 6. All the writ petitions stand disposed of with the aforesaid observation and direction. Consequently, connected miscellaneous petitions are closed. No costs."

3. In the light of the above, this writ petition is disposed of in terms of the above direction issued by the Honourable Division Bench, which the Assessing Officer shall scrupulously follows. No costs. Connected miscellaneous petition is closed.
rpa

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The State of Tamil Nadu,
rep.by its Secretary,
Department of Religious Endowments &
Commercial Taxes
Fort St.George,
Chennai-600 009

2.The Commercial Tax Officer,
Egmore-I Circle,
Chennai 600 008.

+ 1 cc to Spl. Govt.Pleader (Taxes) SR 36691

ctk(co)
prk19/7

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