

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.39351 of 2004

M/s Blue Star Ltd.,
46, Cathedral Road,
Chennai 600006

... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Secretary to the Government,
Commercial Taxes and Hindu Religious and
Endowment Department
Fort St.George,
Chennai-600 009.

2.The Commercial Tax Officer,
Valluvarkottam Assmt. Circle,
Chennai-6.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of declaration to declare the provisions of Explanation V under Section 2(1) (aa) of the Tamil Nadu Additional Sales Tax Act introduced by Act 23 of 2002 as ultra vires and strike down the same.

For Petitioner : Mr.R.L.Ramani, Sr.Counsel
for Mr.P.V.Sudhakar
For Respondents : Mr.Manokaran Sundaram,
Addl.Government Pleader

O R D E R

Heard Mr.R.L.Ramani, learned Senior Counsel, instructed by Mr.P.V.Sudhakar, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader for the respondents.

2.The petitioner is a registered dealer with the second respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959. This Writ Petition has been filed to declare the provisions of Explanation V under Section 2(1) (aa) of the Tamil Nadu Additional Sales Tax Act introduced by Act 23 of 2002 as ultra vires and strike down the same.

3.It is submitted by the learned Senior Counsel that the issue involved in this Writ Petition is squarely covered by the decision of this Court in the case of TAHER ALI INDUSTRIES AND PROJECTS (P) LTD., v. STATE OF TAMIL NADU AND ANOTHER [(2012) 47 VST 155 (Mad)].

4. Mr.Manokaran Sundaram, learned Additional Government Pleader for the respondents does not dispute the said position.

5.Accordingly, the Writ Petition is allowed and the Explanation V under Section 2(1) (aa) of the Tamil Nadu Additional Sales Tax Act, 1970 is declared as ultra vires the Constitution of India, being beyond the competence of the State Legislature. No costs. Connected miscellaneous petition is closed.

rpa

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Secretary to the Government,
State of Tamil Nadu,
Commercial Taxes and Hindu Religious and
Endowment Department
Fort St.George,
Chennai-600 009.

2.The Commercial Tax Officer,
Valluvarkottam Assmt. Circle,
Chennai.

+ 1 cc to Mr.Chandran Karuppiah, Advocate SR 36802

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 36675

sv(co)
prk15/7

W.P.No.39351 of 2004