IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8023 of 2007 & W.M.P.No.2 of 2007

R.Babu, Proprietor,
Sree Saravana Granites,
Onnalvadi Village,
Rayakotta Main Road, Hosur. ... Petitioner

Vs.

1.The Commercial Tax Department
(South) Circle, Chennai.
2.Deputy Commercial Tax Officer (South),
Hosur. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the record passed by the respondent dated 08.06.2006 for the assessment year 2002-03 vide on TNGST Assessment No.3361748/02-03 and quash the same.

For Petitioner : S.Palani Rajan

For Respondents : Mrs.Narmadha Sampath
Special Government Pleader

O R D E R

Heard Mr.S.Palani Rajan, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government pleader, for the respondents.

2.The petitioner has filed this writ petition challenging the order passed by the Assessing Officer demanding entry tax in respect of export sale of granite blocks effected by the petitioner. There is also a demand for penalty. The constitutional validity of the entry tax on being referred to the Larger Bench of the Hon'ble Supreme Court was answered in

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favour of the dealer, in Jindal Stainless Steel v. State of Haryana and others reported in (2006) 145 STC 544 (SC), which was followed by a Division Bench of this Court in ITC Ltd., v. State of Tamil Nadu reported in (2007) 7 VST 367. On the reference being answered, the matter is now pending before the regular Bench of the Hon'ble Supreme Court to decide certain other issues. Since the matter is now pending before the Hon'ble Supreme Court, it may not be necessary for this Court to keep this writ petition pending and the same can be disposed of with an observation that whatever is the outcome of the decision of the Hon'ble Supreme Court will apply to the petitioner and the respondent herein. In other words, if the issue is answered in favour of the petitioner, then it will accrue in favour of the petitioner herein and the matter will attain finality. In the event, the revenue succeeds, then the respondents herein will be entitled to re-open the proceedings and take up the matter for consideration. In such event, the petitioner cannot plead that the matter is barred by limitation, since it is pursuant to the direction issued by this Court in this Writ petition. Since the petitioner had the benefit of order of interim stay during the pendency of this writ petition, the same shall continue till the disposal of the matter now pending before the Hon'ble Supreme Court.

With the above observation and direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1.The Commercial Tax Department
(South) Circle, Chennai.

2.The Deputy Commercial Tax Officer
(South), Hosur.

US 26/10/2017

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