IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2017

CORAM

The HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.21727 of 2017

M/s.Swastik Industrial Products,
rep. by its Proprietor S.V.Prasad,
No.2, Eda Street,
Gandhi Market,
Trichy - 620 008,
Trichy District. .. Petitioner

vs.

1. The State of Tamil Nadu,
   rep. by the Secretary,
   Commercial Taxes and Registration Department,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner (CT),
   Palakkarai II Assessment Circle,
   Trichy,
   Trichy District. .. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of declaration to declare Section 2(11) of the Tamilnadu Value Added Tax Act, 2006 as discriminatory and ultra vires the Constitution of India and violative of Articles 14, 301, 303 and 304 of Part XIII of the Constitution of India, in so far as it postulates the condition of capital goods being used "in the State" for the purpose of levy of tax @ 4%.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.Kanmani Annamalai

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

In this writ petition, the petitioner has questioned the vires of Section 2(11) of the Tamil Nadu Value Added Tax Act, 2006. It is contended that the said Section is discriminatory, ultra vires and violative of Articles 14, 301, 303 and 304 of the Constitution of India.

2. Ms.R.Hemalatha, learned counsel appearing on behalf of the petitioner in all fairness submits that the issue has been decided against the petitioner by a judgment of Co-ordinate Bench of this Court pronounced on 5th April, 2016 in the writ petition being W.P.No.37604 of 2007, in M/s.Schwing Stetter (India) Private Limited, Irungattukottai, Sriperumbudur Taluk, Kancheepuram District v. The Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai-5 and another, heard and disposed of along with a batch of similar writ petitions. This Court upheld the validity of Section 2(11) of the Tamil Nadu Value Added Tax Act, 2006.

3. Judicial propriety demands that we follow the judgment in M/s.Schwing Stetter (India) Private Limited (supra) rendered by a Bench of Co-ordinate strength.

4. The writ petition is, therefore, dismissed. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To:

1. The Secretary,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai - 600 009.

2. The Assistant Commissioner (CT),
Palakkarai II Assessment Circle,
Trichy,
Trichy District.

+1 CC to Ms. R. Hemalatha, advocate sr 58767
+1 Cc to Spl. Govt. Pleader sr 58952

W.P.No.21727 of 2017

RSI(CO)
sp(31/08/2017)