

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7331 of 2009
and M.P.No.1 of 2009

Jain Wire Netting Co., rep. by its
Partner Bachhraj Giria,
76, Mill Road, Coimbatore-641 001.

... Petitioner

Vs.

1.The Commercial Tax Officer,
Oppanakara Street Circle,
Coimbatore.

2.The Commissioner of Commercial
Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records on the files of the first respondent herein in TNGST 1860428/05-06 dated 23.03.2009 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy for
Mr.N.Inbarajan

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader

सत्यमेव जयते
O R D E R

Heard Mr.K.A.Parthasarathy, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2.This writ petition has been filed challenging the order of assessment under the provisions of the Tamil Nadu General Sales Tax Act, 1956 (hereinafter referred to as "the TNGST Act") for the assessment year 2005-06.

3.The legal issue involved is as to under which entry "hook

and loop tape fasteners" is fall. This issue has been settled by the decision in the case of Sky Industries Limited and others v. Commissioner of Commercial Taxes reported in [2010] 32 VST 407 (Mad), wherein it was held that "hook and loop tape fasteners" otherwise called "Velcro fastener" fell under Chapter 58.06 of the Tamil Nadu Additional Duties of Excise (Goods of Special Importance) Act, 1957 read with Section 8, Schedule 3, Clause 8(iv) of the TNGST Act. Since the above issue has been answered in favour of the assessee and against the revenue, the assessment order has to be set aside.

4.Thus, following the above referred decision, this writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

abr

To

- 1.The Commercial Tax Officer,
Oppanakara Street Circle,
Coimbatore.
- 2.The Commissioner of Commercial
Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.89834

+1cc to the Government Pleader, S.R.No.89998

PA(CO)
RRK(17/01/2018)

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