IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.8611 of 2007

M/s. Accurate Electronics,
Rep. by its Proprietor, R.Saravanan,
No.392, Raja Street, Coimbatore-641 001. ... Petitioner

Vs.

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

2.The Commercial Tax Officer,
R.G.Street Circle, Coimbatore-641 018. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring that Sl.No.9 of Eleventh Schedule to the Tamil Nadu General Sales Tax Act, 1959 as introduced by the Tamil Nadu Act 22 of 2002 with effect from 01.07.2002 is ultra vires Articles 14, 265, 286, 301, 304(a) of the Constitution of India.

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mrs.Narmadha Sampath
Special Government Pleader

O R D E R

Heard Mrs.R.Hemalatha, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader appearing for the respondents.

2.The petitioner has filed this writ petition for issuance of Writ of Declaration, declaring Sl.No.9 of the 11^{th} Schedule to the Tamil Nadu General Sales Tax Act, 1959 as introduced by the Tamil Nadu Act 22 of 2002 with effect from 01.07.2002 as ultra vires Articles 14, 265, 286, 301, 304 (a) of the Constitution of India. The issue travelled up to the Hon'ble Supreme Court in the case of Sony India Pvt., Ltd. v. CTO reported in 2009 23 VST 1 (SC).

3.The Hon'ble Supreme Court while considering the correctness of the decision of this Court dismissing similar writ petitions, held that the contentions raised by the assesse requires adjudication and the assesse ought to have filed appeals for each assessment years before the appellate authority, which they had not done. It was further held that since important question of law arose for determination, the assesse has to prefer statutory appeal within a stipulated time and direction was issued to the appellate authority to decide the appeals within a period of six months.

4. In the light of the decision of the Hon'ble Supreme Court, the petitioner has to necessarily go before the assessing officer, since the petitioner had approached this Court at the stage when show cause notice was issued by the second respondent vide notice dated 28.12.2006.

5.Thus, for the above reasons, this writ petition stands disposed of by directing the petitioner to submit their objections to the notice dated 28.12.2006 within a period of 30 days from the date of receipt of a copy of this order. On receipt of the objections, the second respondent is directed to afford an opportunity of personal hearing to the petitioner to consider the legal and factual grounds raised by the petitioner and complete the assessment by passing a reasoned order. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

abr

To

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

2.The Commercial Tax Officer,
R.G.Street Circle, Coimbatore-641 018.

+1cc to Mrs.R.Hemalatha, Advocate Sr. 68071

W.P.No.8611 of 2007

AR(V)
VR(27/10/2017)