IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.5959 of 2009
and M.P.No.1 of 2009

TOUCH WOOD
REP. BY ITS PARTNER
AMRUTIAL
259 SYDENHAMS ROAD
CHENNAI-3. ..Petitioner

Vs

1. THE COMMISSIONER OF COMMERCIAL TAXES
   EZHILAGAM CHEPAUK CHENNAI-5.

2. THE COMMERCIAL TAX OFFICER
   VEPERY ASSESSMENT CIRCLE CHENNAI-7.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari calling for the records in TNGST 0521933/2003-04 dt.27.1.2009 on the file of 2nd respondent and quash the same.

For Petitioner : Mr.N.Murali
For Respondents : Mr.K.Venkatesh, GA

O R D E R

Heard Mr.N.Murali, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondents.

2. The petitioner, who is a registered dealer on the file of the 2nd respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959, has filed this writ petition, challenging the notice dated 27.01.2009,issued under the said Act for the assessment year 2003-04, proposing to assess the sale of paper based laminated sheets to tax at 16%.

3. An identical issue was considered by this Court in the case of Sundek India Limited vs. Commissioner of Commercial Taxes, reported in 2009 4 CTC 858 and the decision was rendered in favour of the assessee. This order was put to challenge before the Division Bench in Commissioner of Commercial Taxes vs. Sundex India Limited in W.A.No.1181 of 2011 and the Division Bench, by Judgment dated 05.08.2015, dismissed the appeal, holding that the revenue was not

justified in demanding tax at 16% and the correct rate of tax to be collected is only 10%. Thus, the impugned notice has to be held to be unsustainable in law.

4. Following the above referred decisions, the writ petition is allowed and the impugned order is set aside. No costs. Connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

1. THE COMMISSIONER OF COMMERCIAL TAXES
   EZHILAGAM CHEPAUK CHENNAI-5.

2. THE COMMERCIAL TAX OFFICER
   VEPERY ASSESSMENT CIRCLE CHENNAI-7.

+1 CC to Mr.N. Murali, Advocate sr 47902
+1 CC to Spl. Govt. Pleader sr 47618

W.P.No.5959 of 2009

SP(19/07/2017)