

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.8879 of 2004
and W.P.M.P.No.10390 of 2004

M/s.Karthik Electric Controls,
Rep. By its Partner,
S.Saravanan
S.F.No.223/1, Nethaji Nagar Extn.,
Nanjundapuram Road,
Coimbatore - 641 036. ... Petitioner

...Vs...

The Commercial Tax Officer,
Podanur Circle,
Coimbatore. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent herein in his proceedings in TNGST No.1800946/1996-97 dated 29.03.2004 and quash the same.

For Petitioner : M/s.R.Hemalatha

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard M/s.R.Hemalatha, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2.The petitioner has filed this writ petition challenging a recovery notice for recovering the tax under the provisions of the Tamil Nadu General Sales Tax Act (TNGST Act) for the assessment year 1996-97. The petitioner's contention is that

they being a selling dealer cannot be imposed with penalty for the contravention of the condition of Form XVII committed by the purchasing dealer. This issue is no longer res integra and has been settled by the Hon'ble Division Bench in the case of Sree Murugan Engineering Products vs. Commercial Tax Officer, Coimbatore reported in (2006) 148 STC 419 (Madras), wherein the Hon'ble Division Bench has held that for the contravention of condition of Form XVII, tax and penalty could be imposed only against the purchasing dealer and not against the seller as per Section 3(3) of the TNGST Act.

3. In the light of the above decision, the impugned order of the Assessing Authority is clearly without jurisdiction and therefore, the writ petition is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

The Commercial Tax Officer,
Podanur Circle,
Coimbatore.

+1cc to M/s.R.Hemalatha, Advocate, S.R.No.47079

+1cc to the Special Government Pleader, S.R.No.46796

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CS/19/07/17

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