IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23948 of 2007 & M.P.No.1 of 2007

Murugan Sago Factory, rep. by its
Proprietor, K.Krishnamoorthy,
Salur, Alamelupuram,
Poppireddipatti Taluk,
Dharmapuri District. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Harur. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records on the files of the respondent herein in TNGST No.3340448/2001-02 dated 26.04.2007 and quash the same.

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

For Respondent : Mr.S.Kanmnai Annamalai,
Additional Government Pleader

O R D E R

Heard Mr.Parthasarathi, representing counsel for Mr.N.Inbarajan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has filed this writ petition challenging the revision of assessment passed under the provisions of the Tamil Nadu General Sales Tax Act, 1959 for the assessment year 2001-02, based upon the electricity consumption charges.

3.Identical issue was considered by this Court in the case of Ponni Sago Factory vs. Deputy Commercial Tax Officer, Salem and others reported in (2007) 5 VST 223 (Mad) and the Court after following two Division Benches Judgments, allowed the writ petition. However, liberty was given to the assessing officer to pass fresh assessment orders/revised asessment orders in accordance with law by applying the law laid down by the Court. The operative portion of the decision reads as follows:

"Accordingly, applying the law laid down by the two honourable division Benches of this Court in the above said decisions, viz., Kalyani Oil Mills v. State of Madras [1973] 32 STC 542 and in the case of Madurai Soft Drinks (Private) Limited v. State of Tamil Nadu reported in [1985] 60 STC 94, the impugned proceedings are set aside. But however, the respective assessing officers are at liberty to pass fresh assessments orders/revised assessments orders in accordance with law, more particularly applying the law laid down by this Court in the cases mentioned supra."

4.Learned counsel appearing for the revenue does not dispute the above legal position.

5.Thus, following the above referred decision, this writ petition is allowed and the impugned proceedings are set aside. However, the respondent is at liberty to pass fresh assessment orders/revised assessment orders in accordance with law by applying the law laid down in the above referred decision. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

abr

To

The Deputy Commercial Tax Officer,
Harur.

W.P.No.23948 of 2007

CS-V
EU(21/11/2017)