IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 6.2.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

W.P.NO.3383 OF 2016

AND WMP.NO.2774 OF 2016

M/s.Shivam Trading Company
rep. by its Partner Kunal M.Patel
S.No.1433/2B, Nagappa Industrial Estate,
Puzhal, Chennai 600 066. ...Petitioner

Versus

1. The State of Tamil Nadu,
   rep. by the Secretary,
   Commercial Taxes and Registration
   Department,
   Fort St. George, Chennai 600 009.

2. The Assistant Commissioner(CT)
   Madhavaram Assessment Circle,
   No.170, GNT Road, Puzhal,
   Chennai 600 066. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration to declare Section 2(11) of the Tamilnadu Value Added Tax Act, 2006 as discriminatory and ultra vires the Constitution of India and violative of Articles 14, 301, 303 and 304 of Part XIII of the Constitution of India, insofar as it postulates the condition of capital goods being used 'in the state' for the purpose of levy of tax at 4%.

For petitioner : Mr.T.Pramodkumar Chopda
For R1 : Mr.Kanmani Annamalai, AGP (Taxes)

ORDER

(Order of the court was made by Dr.Anita Sumanth, J.)

The writ petitioner prays for a declaration declaring Section 2(11) of the Tamilnadu Value Added Tax Act, 2006 as discriminatory and ultra vires the Constitution of India and violative of Articles 14, 301, 303 and 304 of Part XIII of the Constitution of India, insofar as it postulates the condition of capital goods being used 'in the state' for the purpose of levy of tax at 4%.

2. A Division Bench of this court in the case of M/s.Schwing Stetter (India) Pvt. Ltd. V. The Commissioner of Commercial Taxes, vide decision dated 5.4.2016 in W.P.Nos.37684 and 37685 of 2007 and batch, has upheld the validity of the provision impugned before us. In the light of the same, the present writ petition is dismissed. No costs connected M.P. Is Closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

1. The State of Tamil Nadu,
   rep. by the Secretary,
   Commercial Taxes and Registration
   Department, Fort St. George,
   Chennai 600 009.

2. The Assistant Commissioner(CT)
   Madhavaram Assessment Circle,
   No.170, GNT Road, Puzhal,
   Chennai 600 066.

+1cc to Mr.T.Pramod Kumar, Advocate SR.No.7507

+1cc to The Special Government Pleader (Taxes) SR.No.7412

W.P.No.3383 of 2016

SDR 09.03.2017