IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16/11/2017**

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Revision).No.49 of 2017

The State of Tamil Nadu
rep. By the
Joint Commissioner (CT)
Chennai (East) Division
Chennai-600 006 ... Petitioner

Vs

Tvl. Newman Press (P) Ltd
No.68 Royapettah High Road
Chennai 14. ... Respondent

Tax Case Revision filed under Section 38 of the TNGST Act, 1959 against the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, dated 29th October 2010 and passed order in TA No.224/07.

For petitioner : Ms.Narmatha Sampath
Special Government Pleader

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ORDER

(Order of the Court was made by **S.MANIKUMAR,** ***J)***

Instant Tax Case (Revision) is filed against the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, dated 29th October 2010 made in T.A.No.224 of 2007.

2. Heard the learned Special Government Pleader appearing for the petitioner.

3. Tax Case (Revision), is filed on the following substantial questions of law.

> "1. Whether the order of the Appellate Tribunal is correct in interpreting the expression "does not sell the goods so manufactured "occurring in sub Section (4) of Section 3 of the Tamil Nadu General Sales Tax Act, 1959 as including not only intra state but also export sale?
>
> 2. Whether the Appellate Tribunal is correct in invoking the principle of situs as envisaged in explanation 3(a) to Section 2(n) of the Tamil Nadu General Sales Tax Act, 1959 for the purpose of interpretation of the expression "does not sell the goods so manufactured" as contained in sub Section (4) of Section 3 of the Act so as to bring it within the ambit of the said explanation?
>
> 3. Whether the Appellate Tribunal is legally correct in distinguishing the judgment of Hon'ble Supreme Court in the case of State of Karnataka Vs. B.M.Ashraf & Co reported in 107 STC 571, wherein it was held that a sale deemed to be in course of export under Section 5 (3) of the Central Sales Tax Act, 1956 cannot be regarded as an intrastate sale?
>
> 4. Whether the Appelalte Tribunal is correct in construing that the levy of tax attracted under Section 3(4) of

the Act in the event of export sale of the manufactured goods as being a direct levy on the export sale itself and thus contravening Article 286 of the Constitution?

5. Whether the Appellate Tribunal is correct in placing a construction on the expression "in any other manner" occurring under sub Section (4) of Section 3 of the Tamil Nadu General Sales Tax Act, 1959 would not include export sale within its ambit?

6. Whether the Appellate Tribunal has failed to appreciate that sections 3(3) and 3(4) of the Tamil Nadu General Sales Tax Act, 1959 are not designed as charging provisions as evident from the non-obstante clause occurring at the beginning of Section 3(3) of the said Act?

7. Whether the Appellate Tribunal has totally failed to consider that Tamil Nadu General Sales Tax Act, 1959 was enacted to levy tax on sales or purchases within the State of Tamil Nadu alone as evident from the pre-factory explanation to the said Act?"

4. Earlier on similar set of facts and substantial questions of law, following the decision of this Court in **Tube Investment of India Ltd., v. State of Tamil Nadu,** reported in **[2010] 36 VST 67 (Mad.),** and other similar cases, we dismissed Tax Case Revision No.47 of 2017, filed by the State at the admission stage itself.

S.MANIKUMAR, J

AND

R.SURESH KUMAR, J

mvs.

5. As the instant Tax Case (Revision) is similar, following the decision in **Tube Investment of India Ltd., v. State of Tamil Nadu,** reported in **[2010] 36 VST 67 (Mad.)**, the instant **Tax Case (Revision), is dismissed.** No Costs.

(S.M.K., J.) (R.S.K., J.)
16th November 2017

Index: Yes/No

Internet: Yes/No

mvs.

To

The Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai

Tax Case (Revision).No.49 of 2017