IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.19831 of 2004

M/s.Dhanalakshmi Oil Traders,
Rep., by Partner, V.Dhanasekaran,
252-5, East Marret Street,
Madurai -1. ... Petitioner

Vs.

1. The State of Tamilnadu Rep., by
   Secretary to Government,
   Commercial Taxes Department,
   Fort., St., George,
   Chennai - 9.

2. The Commercial Tax Officer (FAC),
   Munichalai Road Circle,
   Madurai -20. ... Respondents

Prayer in all W.Ps : Petitions filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, to forbear the respondents from assessing, levying collecting and demanding Re-Sale Tax on the petitioner's distribution of AIRCEL Starter Pack and Re-charge Cards pertaining to M/s.Aircel Ltd.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.K.Venkatesh G.A.

O R D E R

Heard Mr.A.Chandrasekaran, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2.The Writ Petition has been filed for issuance of a Writ of Mandamus, to forbear the respondents from assessing, levying, collecting and demanding Resale Tax on the petitioner's distribution of AIRCEL Starter Pack and Re-charge Cards pertaining to M/s.Aircel Ltd.

3.It is submitted by the learned counsels on either side that the legal issue, which is involved in this Writ Petition, has been settled by various decisions and has also been clarified by the Authority for Clarification and Advance Ruling, dated 29.10.2014, to the following effect:-

> 12. The re-clarification in respect of the Recharge Coupons, based on the above is as follows:-
>
> (i) The Recharge Coupons or vouchers for mobile phone connections are not "goods", falling within the scope of the definition of "Goods", under Section 2(21) of the TNVAT Act, 2006 and therefore attracts no tax liability under Section 3(2) of the TNVAT Act, 2006.
>
> (ii) Consequently the clarification advanced earlier in this regard in ACAAR No.86/2012-13 (Acts Cell-II/38112/2012), dated 14.02.2013, is rescinded.

In the light of the above clarification, the Writ Petition is allowed. No costs.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

pbn

To

1. The Secretary to Government,
   State of Tamilnadu Rep., by
   Commercial Taxes Department,
   Fort., St., George,
   Chennai - 9.

2. The Commercial Tax Officer (FAC),
   Munichalai Road Circle,
   Madurai -20.

+1cc to Mr.P.Rdhakrishnan, Advocate Sr. 52979
+1cc to the Special Government Pleader, Sr. 53037

W.P.No.19831 of 2004

KK(CO)
VR(18/8/2017)