IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.2.2017

CORAM

THE HONOURABLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

W.P.No.18920 of 2003

The State of Tamil Nadu,
rep. by the Deputy Commissioner (CT)
Madurai Division, Madurai. ...Petitioner

Versus

1. Tvl.Dindigul Steel Industries,
   756/1, Subburaman Nagar,
   Thottanuthu Road,
   Melapettai, Dindigul.

2. The Secretary,
   The Tamil Nadu Sales Tax Appellate
   Tribunal (AB), Madurai. ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records on the file of the second respondent pertaining to the order dated 2.2.2000 made in M.T.S.A.No.382 of 1999 and quash the same as illegal.

For petitioner : Mr.Kanmani Annamalai, AGP

For Respondents : No appearance.

ORDER

(Order of the court was made by Dr.ANITA SUMANTH J.)

This writ petition is filed by the State challenging the order of the Sales Tax Appellate Tribunal dated 2.2.2000.

2. The sole issue that arises for adjudication is whether the transactions in question would come within the ambit of consignment sales or inter-State sales. Vide order dated 24.12.1996, the assessing officer concluded that the sales effected by the assessee at Dindigul to the purchaser at Kerala

would be inter-State sales liable to tax in terms of the Tamil Nadu General Sales Tax Act, 1959 (Act) and not consignment sales as claimed by the assessee. The basis of such conclusion was that the sales invoices reflected that the goods despatched from the assessee's factory at Dindigul were unloaded directly at the premises of the ultimate buyer in Kerala. Thus, according to the assessing officer, the transaction was one of inter-State sale as the goods had been despatched to, and delivered to the ultimate buyer and not to the agent in the branch at Cochin.

3. In first appeal, the Appellate Assistant Commissioner, after a thorough verification of the facts, concluded that the transaction of sale to the purchaser at Kerala had been concluded by the agent. The finding of fact was to the effect that the order of purchase had been placed only on the agents by the purchaser and lorry receipt was addressed to the agent and not the purchaser. This was established by the sales pattials that were part of record. Tax had been paid by the agents on the sales effected at Kerala. This explanation was confirmed the Sales Tax Appellate Tribunal and the said order dated 2.2.2000 is assailed in appeal before us. We have heard Mr.Kanmani Annamalai and perused the appeal and annexures carefully.

4. In view of the concurrent findings of facts arrived at by both the Appellate Assistant Commissioner and the Tribunal, we find no merit in this writ petition and accordingly, dismiss the same. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

The Secretary,
The Tamil Nadu Sales Tax Appellate
Tribunal (AB), Madurai.

+1cc to the Government Pleader, S.R.No.10782

W.P.No.18920 of 2003

EV(CO)
RS(13/04/2017)