BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.05.2017
CORAM:
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

TAX CASE REVISION(MD)No.6 of 2015

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

Vs.

Tvl. Lakshmi Medicals,
Madurai. ..Respondent/Respondent

PRAYER: Tax Case Revision is filed under Section 38 of the TNGST Act, 1959, presented to the Hon'ble Madurai Bench of Madras High Court to revise the order of the Sales Tax Appellate Tribunal (AB) Madurai dated 29.12.2003 in Madurai Tribunal Appeal No.543/00, 544/00 and 545/00.

For Petitioner : Mr.R.Karthikeyan,
Additional Government Pleader.

For Respondent : Mr.S.Karunakar

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.R.Karthikeyan, learned Additional Government Pleader appearing for the petitioner and Mr.S.Karunakar, learned counsel appearing for the respondent.

2.This Tax Case Revision is directed against the order passed by the Sales Tax Appellate Tribunal (AB) Madurai dated 29.12.2003 in Madurai Tribunal Appeal No.543/00, 544/00 and 545/00.

3.The question of law which arises for consideration, is whether the Tribunal was justified in deleting the penalty imposed on the respondent/ assessee under Section 16(2) of the TNGST Act, 1959. The Tribunal considered the factual matrix and found that certain items, which were alleged to be not included in the turnover, were discovered from the dealer's own account book and these items were included by the Assessing Officer for revising the turnover. This has been held to be not sustainable by the decision of the Hon'ble Supreme Court of India in the case of ***Jeyaraj Nadar & Sons Vs. State of Tamil Nadu reported in 28 STC 700.***

4.The learned counsel for the respondent/assesse also referred to a recent Division Bench judgment in the case of ***State of Tamil Nadu, represented by the Joint Commissioner (CT), Chennai [South] Division Vs. Golden Homes Pvt. Limited reported in 2016-17 (22) TNCTJ.*** Since the legal issue has already been settled by the Hon'ble Supreme Court in the case of ***Jeyaraj Nadar & Sons Vs. State of Tamil Nadu reported in 28 STC 700***, the question framed for consideration has to be necessarily answered in favour of the assesse and against the revenue.

5.In the light of the above, this Tax Revision Case is dismissed. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Additional Judicial Member,
Tamil Nadu Sales Tax Appellate Tribunal(AB),
Madurai.

2.The Deputy Commissioner(CT),
Madurai Division, Madurai.

3.The Commercial Tax Officer,
Kamarajar Salai Circle, Madurai-20.

+1 cc to Special Government Pleader, SR.No.55691

myr/cm/tsg
AE/MR/SAR3/16.05.2017/2P/5C

ORDER MADE IN
TAX CASE REVISION(MD) No.6 of 2015
04.05.2017