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.4 of 2011

M/s.Pandian Chemicals Ltd.,
17-A, Vallabhai Road,
Madurai. .. Petitioner/Appellant

Vs.

The State of Tamil Nadu,
Rep. By its Commercial Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
Chokkikulam Circle,
Madurai. ..Respondent/Respondent

PRAYER: Tax Case Revision is filed under Section 38 of the TNGST Act, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (AB) Madurai, dated 24.12.2010 passed in M.T.A.No.180 of 2003.(Appeal No.58/2002 order dated 21/07/2003 on the file of the Appellate Assistant Commissioner (CT), Madurai (North), for the Assessment No:5000064 year 1996-97).

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Karthikeyan,
Additional Government Pleader

ORDER

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

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

2.This Tax Case Revision is filed by the assessee, challenging the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai in M.T.A.No.180 of 2003, dated 24.12.2010.

3. The question of law framed for consideration is whether on the facts and circumstances of the case, the Tribunal was right in fixing the additional sales tax at 2.5% on the taxable turnover of Rs.4,69,32,484/- for the period upto 31.07.1996 is correct in law.

4. The matter pertains to levy of additional sales tax which admittedly came into force pursuant to the amendment which was given effect as on 31.07.1996. Therefore, the question would be as to how the tax liability has to be worked out. This question was considered earlier by the Division Bench of this Court in the case of State of Tamil Nadu Vs. Kirthilal Kalidas & Co. reported in (2014) 70 VST 359 (Mad), wherein the following order was passed:

> "The issue as regards the levy of additional sales tax in respect of the assessment year 1996-97 is covered by the decision of this Court in the case of State of Tamil Nadu v. National Time Co. reported in [2011] 39 VST 247(mad) that after taking the taxable turnover for the entire year, the taxable turnover up to the date of amendment has to be assessed with reference to the relevant tax rate therein applicable to the period.
>
> In the circumstances, setting aside the order of the Sales Tax Appellate Tribunal, the matter is remanded back to the Assessing Officer to work out the liability based on the decision of this Court. Thus, taking the taxable turnover for the entire year, the taxable turnover up to the period July 31, 1996, has to be worked out to attract the liability at the rates specified therein and beyond that, the liability of the turnover has to be worked out based on the amended provision depending on the taxable turnover crossing rupees 100 crores for the whole year.
>
> The tax case revision stands disposed of accordingly. No costs."

5. The above legal position has not been controverted by the Revenue. In the circumstances, while setting aside the order passed by the Sales Tax Appellate Tribunal, the matter is remanded back to the Assessing Officer to work out the liability based on the decision of this Court. Thus, taking the taxable turnover for the entire year, the taxable turnover up to the period July 31, 1996, has to be worked out to attract the liability at the rates specified therein and beyond that, the liability of the turnover has to be worked out based on the amended provision depending on the taxable turnover crossing rupees 100 crores for the whole year.

6. This tax case revision stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To:

1. The Commercial Tax Officer,
   State of Tamil Nadu,
   (Formerly known as Deputy Commercial Tax Officer)
   Chokkikulam Circle,
   Madurai.

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

3. The Appellate Assistant Commissioner (CT),
   Madurai (North).

+1cc to M/S. S.KARUNAKAR, Advocate, SR.No.55696.

ORDER MADE IN
TAX CASE REVISION(MD) No.4 of 2011
04.05.2017

SDS/JC/SAR 3/25.05.2017/3P/5C