IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10538 of 2018
and
W.M.P.No.12490 of 2018

M/s.GRH Designer Concepts,
Rep. by its Proprietor, Mr.G.Shreepal,
Adinath Nagar,
No.50, Madhavaram Village Godown,
No.130 & 131, Jawaharlal Nehru Road,
Madhavaram, Chennai-600 060. ... Petitioner

-vs-

The State Tax Officer,
Madhavaram Assessment Circle,
No.170, G.N.T. Road,
Puzal Camp, Chennai-600 066. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the respondent in CST 922797/2016-17 dated 04.04.2018 and quash the same as ultra vires of the provisions of Central Sales Tax Act, 1956.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate (Taxes)

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O R D E R

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate (Taxes) for the respondent. With consent on either side, this writ petition is taken up for final disposal.

2. The petitioner has impugned an order of assessment dated 04.04.2018 under the provisions of the Central Sales Tax Act, 1956 (hereinafter referred to as "the CST Act") for the

assessment year 2016-17.

3. The only issue falls for consideration is whether the respondent could insist upon filing of Form C Declaration when the dealer has taken a specific stand that the goods are exempted goods under the Tamil Nadu Value Added Tax Act, 2006 and there is no statutory obligation to file Form C Declaration.

4. The learned Government Advocate (Taxes) on the written instructions given by the Assistant Commissioner (ST) to the Special Government Pleader (Taxes) dated 26.04.2018, would submit that all transactions are not exempted goods and proper reconciliation was not done by the dealer and wherever Form C Declaration was given, the same has been given due credit and the assessment has been completed.

5. What is important to note is that, if the goods are exempted goods, then there is no statutory obligation on the part of the respondent to file Form C Declaration. This aspect of the matter has to be borne in mind by the respondent and the assessment should be redone.

6. Accordingly, this writ petition is allowed, insofar as it levies higher rate of tax on the ground that Form C Declarations have not been filed and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity to the petitioner, peruse the documents, take note of the legal position and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr
To

The State Tax Officer,
Madhavaram Assessment Circle,
No.170, G.N.T. Road,
Puzal Camp, Chennai-600 066.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.42866
+1cc to the Special Government Pleader(T), S.R.No.42446

W.P.No.10538 of 2018

GJ(CO)
CS/24/07/18