IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.23926 of 2007
and
M.P.No.1 of 2007

Palaniappa Gounder Sago Factory,
Represented by its Proprietor,
Palaniappa Gounder,
Kelavalli, Kambainallur. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Harur. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the respondent herein in TNGST-3341226/2002-03, dated 26.4.2007.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.M.Hariharan
Additional Government Pleader

ORDER

Challenging the order dated 26.4.2007 passed by the respondent relating to the assessment year 2002-2003, the petitioner has come with this writ petition.

2. Today, when the matter was taken up for hearing, the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent jointly submitted that the issue involved herein is squarely covered by the decision of this Court in Ponni Sago Factory Vs. Deputy Commercial Tax Officer, Salem and others [(2007) 5 VST 223 (Mad)], wherein, this Court, after having held that the best judgement assessments/revised assessments made on the basis of the survey report on the consumption of electricity alone without looking into the account books, are nothing but arbitrary, had set aside the assessment proceedings and allowed the writ petitions. For better appreciation, the operative portion of the said decision is extracted hereunder:

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"10. Accordingly, applying the law laid down by the two Honourable Division Benches of this Court in the above said decisions, viz., Kalyani Oil Mills Vs. The State of Madras, reported in 32 S.T.C. 542 and in the case of Madurai Soft Drinks (Private) Limited Vs. The State of Tamil Nadu reported in 60 S.T.C. 94, the impugned proceedings are set-aside. But however, the respective assessing officers are at liberty to pass fresh assessment orders / revised assessment orders in accordance with the law, more particularly applying the law laid down by this Court in the cases mentioned supra.

11. For the foregoing reasons, the above writ petitions are allowed. No costs. Consequently, the connected pending WPMPs are closed."

3. Following the aforesaid decision, this writ petition stands allowed, by setting aside the assessment order passed by the respondents, however, the respondent is at liberty to pass fresh assessment order, revised assessment orders in accordance with the law, more particularly applying the law laid down by this Court in Kalyani Oil Mills and Madurai Soft Drinks (Private) Limited cases mentioned supra.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ms
To
The Deputy Commercial Tax Officer,
Harur.

+1 CC to Mr.N.Inbarajan, advocate sr 80613.
+1 CC to The Spl. Govt. Pleader(T) sr 81475.

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KJ(CO)
SP(31/01/2019)

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