IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.4495 of 2004
WMP Nos. 5303 of 2004 and 65 of 2008

M/s.Blue Star Ltd.,
46, Cathedral Road,
Chennai -600 006 ... Petitioner

vs.

1. The State of Tamilnadu rep.
by the Secretary to the Government,
Commercial Taxes and Hindu
Religious and Endowment,
Govt. of Tamilnadu,
Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
Valluvarkottam Assessment Circle,
Chennai - 600006 ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of declaration, declaring the provisions of Explanation V under Section 2(1)(aa) of the Tamil Nadu Additional Sales Tax Act introduced by Act 23 of 2002 as ultra vires and strike down the same.

For Petitioner : Mr.B.Raveendran
for M/s.Chandran Karuppiah & Ramani

For Respondents: Ms.G.Dhanamadhri (For R1 & R2)
Government Advocate (Taxes)

ORDER

(Order of the Court was made by S.MANIKUMAR, J)

In W.P.No.37661 of 2005, M/s.Blue Star Limited, Chennai, has sought for a writ of declaration, declaring the provision of Explanation V under Section 2(1) (aa) of the Tamil Nadu Additional Sales Tax Act introduced by Act 23 of 2002 as ultra

Vires and strike down the same.

2. After hearing the learned counsel for the parties and taking note of the decision in State of Tamil Nadu and another Vs. M/s. Taher Ali Industries & Projects (P) Ltd., reported in 2016 - VIL - 548-Mad, a learned Single Judge of this Court, vide order dated 18.07.2017, allowed W.P.No.37661 of 2005. For brevity, the order reads thus.

> "Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent.
>
> Learned counsel on either side submitted that the issue involved in this writ petition is squarely covered by the decision in the case of "M/s.Taher Ali Industries & Projects (P) Ltd., Vs. The State of Tamil Nadu and another reported in 2012 47 VST 155 (MAD)" which was affirmed by the Hon'ble Division Bench in the case of "The State of Tamil Nadu and another Vs. M/s.Taher Ali Industries & Projects (P) Ltd., reported in 2016-VIL-548-MAD.
>
> 3. The above order was followed by this Court in W.P.No.39351 of 2004 dated 29.06.2016 in the assessee's own case. Following the above referred decision, this writ petition is allowed. No costs."

3. Instant W.P.No.4495 of 2004, is filed for the above said prayer in the year 2004.

4. Having regard to the order made in W.P.No.37661 of 2005, dated 18.07.2017, in respect of the very same petitioner, there is no need to pass another order in W.P.No.4495 of 2004. Hence, writ petition is closed. No Costs. Consequently, the connected Writ Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ars

To

1. The Secretary to the Government,
   The State of Tamilnadu
   Commercial Taxes and Hindu Religious and Endowment,
   Govt. of Tamilnadu,
   Fort St. George, Chennai - 600 009.

2. The Commercial Tax Officer,
Valluvarkottam Assessment Circle,
Chennai - 600006



+1cc to Mr.B.Raveendran, Advocate, S.R.No. 65171
+1cc to the Special Government Pleader, S.R.No. 65162

WP.No.4495 of 2004
WMP Nos. 5303 of 2004 and 65 of 2008

RR(CO)
GN(25/10/2018)