IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.Nos.1381 and 1382 of 2018

M/s.Naresh International,
Rep. by its Partner,
No.497, Katra Ishwar Bhawan,
Kari Baoli,
Delhi - 110 006. .. Appellant/Petitioner in W.A.No.1381 of 2018

M/s.Naresh Chand & Co.,
Rep. by its Proprietor,
No.497, Katra Ishwar Bhawan,
Khari Baoli,
Delhi - 110 006. .. Appellant in W.A.No.1382 of 2018

Vs.

1.The District Forest Officer,
Salem Division,
Salem.

2.The Commercial Tax Officer,
Salem Division,
Salem. .. Respondents/Respondents in both WAs.

Common Prayer: Writ Appeals are filed under Clause 15 of the Letter Patent, against the order, dated 21.11.2012, made in W.P.Nos.569 and 570 of 2011.

WP.NO.569/2011:

Writ Petition filed Under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus call for the records of the Sale confirmation having reference C.No.9999/2010 S(7)dated 30.12.2010 issued by the 1st Respondent and quash the same in so far as it directs payment of 12.5% sales tax on the sale value and consequently direct the 1st Respondent to collect Sales Tax at 2% at Rs.7,05,580/- from the

Petitioner on the total sale value of Rs.3,52,79,000/- for 7.000 MTS of sandalwood purchased by the Petitioner in the auction conducted by the 1st Respondent held on 22.12.2010 in the course of inter-state trade within the meaning of Section 3(a) of the Central Sales Tax Act and deliver the said quantity of 7.000 MT of sandalwood upon payment of the balance sale consideration and other charges if any.

WP.NO.570/2011:

Writ Petition filed Under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the Sale confirmation having reference C.No.9999/2010 S(6)dated 30.12.2010 passed by the 1st Respondent and quash the same in so far as it directs payment of 12.5% sales tax on the sale value and to consequently direct the 1st Respondent to collect Sales Tax at 2% at Rs.201440/- from the Petitioner on the total sale value of Rs.1,00,72,000/- for 2.000 MTS of sandalwood purchased by the Petitioner in the auction conducted by the 1st Respondent held on 22.12.2010 in the course of inter-state trade within the meaning of Section 3(a) of the Central Sales Tax Act and deliver the said quantity of 2.000 MT of sandalwood upon payment of the balance sale consideration and other charges if any.

For Appellant : Ms.C.Uma
(in both Writ Appeals)

For R1 : Mr.M.Santhanaraman
Special Govt. Pleader (Forest)
(in both Writ Appeals)

For R2 : Mr.V.Hari Babu
Additional Govt. Pleader (Taxes)
(in both Writ Appeals)

COMMON JUDGMENT

(Judgment of this Court was made by S.MANIKUMAR, J.)

Before the Writ Court in W.P.No.569 of 2011, M/s.Naresh International, represented by its Partner, Delhi, challenged the proceedings, in I.C.No.9999/2010 S(6), dated 30.12.2010, issed by the District Forest Officer, Salem Division, Salem/first respondent therein, and prayed to quash the same, in so far as it directs payment of 12.5% sales tax, on the sale value and consequently, direct the 1st Respondent, to collect Sales Tax at 2% at Rs.7,05,580/-, from the writ petitioner, on the total sale value of Rs.3,52,79,000/- for 7.000 MTS of sandalwood purchased by the writ petitioner, in the auction conducted by the 1st Respondent, held on 22.12.2010, in the course of inter-state trade, within the meaning of Section 3(a) of the Central Sales Tax Act and deliver the said quantity of 7.000 MT of sandalwood upon payment of the balance sale consideration and other charges if any.

2. Two other writ petitions in W.P.Nos.568 and 570 of 2011, were also filed by M/s.Surya Vinayaka Industries Limited, represented by its Director and M/s.Naresh Chand & Co., represented by its Proprietor, respectively, challenging similar proceedings.

3. As prayer sought for, in the above said writ petitions, were on the same set of facts and submissions, they were taken up together and disposed of by the Writ Court vide common order, dated 21.11.2012, in W.P.Nos.568 to 570 of 2011.

4. Being aggrieved, M/s.Naresh International, represented by its Partner, Delhi, writ petitioner in W.P.No.569 of 2011, has preferred Special Leave Petition, before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No(s).9672-9673/2013. After hearing the learned counsel for the appellant therein, the Hon'ble Supreme Court, vide order, dated 12.03.2013, disposed of the Special Leave Petitions, as withdrawn, granting liberty to the appellant therein, to approach the High Court.

5. Pursuant to the permission granted by the Hon'ble Supreme Court, instant writ appeals have been filed with a delay of 126 days.

6. On the merits of the case, Mr.M.Santhanaraman, learned Special Government Pleader (Forest) submitted that, the issues raised in the instant writ appeals, are squarely covered by a common order, dated 07.02.2005, made in W.A.Nos.3195 of 2004 etc. batch of appeals, by which, a Hon'ble First Bench of this Court, dismissed the appeals filed by dealers herein.

7. Submission of the learned Special Government Pleader (Forest), is duly acknowledged by Ms.C.Uma, learned counsel for the appellants herein.

8. Placing on record above submissions of the learned counsel for both the parties and following the decision of the Hon'ble First Bench of this Court, stated supra, instant writ appeals are dismissed. No Costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dm

To

1.The District Forest Officer,
Salem Division,
Salem.

2.The Commercial Tax Officer,
Salem Division,
Salem.

W.A.Nos.1381 and 1382 of 2018

ssv(co)
nr 18/07/2018