IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2018

CORAM :

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.3196 of 2011
and
M.P.Nos.2 & 3 of 2011

M/s.India Sales International
Rep. By its Partner ..Petitioner

Vs.

1. The District Forest Officer
Salem Division
Salem.

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

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the sale confirmation having reference C.No.9999 /2010 S (4) 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.1,50,460/- from the petitioner on the total sale value of Rs.75,23,000/- for 1.500 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 1.500 MT of sandalwood upon payment of the balance sale consideration and other charges if any and pass such further orders.

For Petitioner : Ms.C. Uma
For Respondents : Mr.Vijay Prashanth,
Addl.Govt.Pleader for R1

Mr.M. Hariharan
Addl.Govt.Pleader for R2

O R D E R

This Writ Petition has been filed to quash the sale confirmation having reference C.No.9999 /2010 S (4) dated 30.12.2010 issued by the 1st respondent, 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.1,50,460/- from the petitioner on the total sale value of Rs.75,23,000/- for 1.500 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 1.500 MT of sandalwood upon payment of the balance sale consideration and other charges if any.

2. Today when the matter was taken up for hearing, the learned counsel for the petitioner fairly brought to the notice of this Court that the issues involved in the present writ petition is squarely covered by the decision of the Division Bench of this Court in the case of KARNATAKA SOAPS AND DETERGENTS LTD., vs., THE DISTRICT OFFICER in W.A. No.3195 of 2004, which has also been followed by this Court vide order dated 26.07.2018 in W.P. No. 21314 of 2005, wherein it has been held as follows :-

> " 11. It may be noted that the auction sale of sandalwood in the State of Tamil Nadu was done by the State of Tamil Nadu. The State Government would only be interested in getting the highest price for the sandalwood, and it would hardly be concerned with the question whether the sandalwood after the auction sale is consumed within the State of Tamil Nadu had entered into any covenant with the petitioner/ appellant for transportation of the sandalwood to Karnataka after the sale. The movement of goods from Tamil Nadu to Karnataka can also not be said to be an incidence of the auction sale, rather the auction sale had nothing to do with the transport of the goods to Karnataka. In the auction sales (for all we know) there may have been bidders who wanted to purchase the sandalwood for use within the State of Tamil Nadu and not for transport outside the State. The State Government authorities would hardly be interested in the question whether the sandalwood after purchase in the auction sale is sent to Karnataka or U.P or some other State, or remains within Tamil Nadu. Hence, it cannot be said that the movement of goods to Karnataka was an incidence of the auction sale. In our opinion, such movement was wholly independent of the auction sale. Thus, it cannot be said that it

was an inter-State sale.

12. ....

13. In the present case, there is no conceivable legal think between the auction sale in Tamil Nadu and the movement of goods to Karnataka. The said movement was purely voluntary at the opinion of the petitioner and not under any legal obligation. ”

3. Following the above decision of the Division Bench of this Court, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

avr

To

1. The District Forest Officer
Salem Division
Salem.

2. The Commercial Tax Officer
Salem Division
Salem.

+1cc to Ms.C. Uma , Advocate SR.No.77341
+1 CC TO GOVERNMENT PLEADER SR.NO. 77464,77661

W.P.No.3196 of 2011
and
M.P.Nos.2 & 3 of 2011

ASK(17/12/2018)