IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.6769 of 2018 &
W.M.P. No.8389 of 2018

Swamy Ayyappa Diesel Works
Represented by its Partner
K.L.Kumar
No.69, Kalarampatti Main Road
Salem - 636 015 ...Petitioner

v.

The Sales Tax Officer
Salem Town (West) Assessment circle
Salem ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in Asst. No.33462823072/2011-12, dated 21.02.2018, and quashing the same.

For Petitioner : Mr.N.Inbarajan
For Respondent : Ms.G.Dhanamadhri
Govt. Advocate (Taxes)

ORDER

Mr.N.Inbarajan, learned appearing for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate (Taxes), appearing for the respondent.

2. Learned counsel on either side agreed that the issue involved in this writ petition is squarely covered by the earlier order of this court in the case of Tvl.Bawa Medicals v. The Commercial Tax Officer, Omalur Assessment Circle, Omalur made in WP.19262 & 19263 of 2017, dated 09.01.2018. The operative portion of the order reads as follows:-

"4. The provisions of the said Act, more particularly Section 3(4)(b), is clear that such dealer may pay a tax for each year on his turnover relating to taxable goods upto Rs.50 lakhs at such rate not exceeding 1% (presently 0.5%) as may be notified by the Government and is liable to pay tax under Sub-Section (2) on all his sales of taxable goods above Rs.50 lakhs.

5. The said provision clearly shows that upto Rs.50 lakhs, the dealer is liable to be assessed at such rate not exceeding 0.5%. However, the respondent did not take note of the statutory provision and assessed the entire turnover at a higher rate of tax namely 5% and 14.5%. Thus, the impugned orders call for interference.

6. Accordingly, the writ petitions are allowed, the impugned orders are set aside and the matters are remanded to the respective respondent with a direction to assess the petitioners to tax at 0.5% for the turnover upto Rs.50 lakhs and over and above Rs.50 lakhs, at the rate of 5% and 14.5%. No costs. Consequently, the connected WMPs are closed."

3. Following the above order, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent with a direction to assess the petitioner's to tax at 0.5% for the turnover upto Rs.50 lakhs and over and above Rs.50 lakhs, at the rate of 5% and 14.5%. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj
To

The Sales Tax Officer
Salem Town (West) Assessment circle,Salem

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.39243
+1cc to the Government Pleader, S.R.No.39688

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CS/29/06/18