IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P.No.8505 of 2010
and
MP.No.1 of 2010

M/s. Sri Rajaganapathy Print Packs,
Represented by its Partner,
No.81, Co-op, Industrial Estate,
Udayapatty, Salem – 636 014. ... Petitioner

Vs.

1. The Assistant Commissioner (CT),
Now designated as Deputy Commissioner (CT)
Commercial Taxes Building,
Salem.

2. The Assistant Commissioner (CT)
Salem Rural Assessment Circle,
Salem. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the second respondent in TNGST No.2701771/2004-2005 and to quash the impugned proceedings dated 28.09.2007.

For Petitioner : Mr.P.Rajkumar

For R1 & R2 : Mr.M.Hariharan, Addl.Govt. Pleader

O R D E R

This writ petition has been preferred by the petitioner against the assessment order dated 28.09.2007 passed by the second respondent for the year 2004-05, imposing penalty under Section 12(3)(b) of the Tamil Nadu General Sales Tax Act, 1959, (for brevity, "TNGST Act") for want of eligibility certificate to avail benefit under the Interest Free Sales Tax Loan (IFST) Deferral Scheme.

2.When the matter was taken up for consideration, the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents jointly submitted that after filing of this writ petition, the change in management/reconstitution of the partnership of the petitioner company was approved by the Tamil Nadu Industrial Investment Corporation Limited (TIIC) vide its communication dated 15.04.2011 and the same was subsequently, ratified by the first respondent by his order in Proceedings Roc.No.2050/2011/A3 dated 18.07.2012, a copy of which has also been addressed to the second respondent. The order of the first respondent dated 18.07.2012 is extracted hereunder:

> "It is therefore ordered that the above Tvl.Sri Rajaganapathy Print Packs can avail the benefit of interest free sales tax loan of Rs.26.85 lakhs (Rupees Twenty Six Lakhs and Eighty Five Thousand Only) subject to the terms and conditions specified in the eligibility certificate and those stipulated in the agreement entered with the Deputy Commissioner (Commercial Taxes) Salem on 31.05.1999 and 18.07.2012, all other terms and condition of the original IFST Certificate cited under reference remains unaltered.

3.In view of the aforesaid subsequent development, the assessment order dated 28.09.2007 passed by the second respondent does not survive and the same is set aside. Accordingly, this writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/--
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

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To
1. The Assistant Commissioner (CT),
Now designated as Deputy Commissioner (CT)
Commercial Taxes Building,
Salem.

2. The Assistant Commissioner (CT)
Salem Rural Assessment Circle, Salem.

+1cc to Mr.P.Rajkumar , Advocate SR.No. 49153
+1 CC TO GOVERNMENT PLEADER SR.NO. 50069

W.P.No.8505 of 2010

ASK(23/10/2018)