IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.02.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.5186 of 2012
and M.P.No.1 of 2012

M/s.SL Lumax Limited
rep by its Managing Director Soo Hwang Lee,
No.G-15, Sipcot Industrial Park,
Irungattukottai, Sriperumbudur - 602 105. .. Petitioner

Vs.

The Commercial Tax Officer,
Sriperumbudur Assessment Circle,
Varadharajapuram, Poonamallee, Chennai. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent in TNGST/1661338/2004-2005 dated 19.01.2012 and quash the impugned notice dated 19.01.2012 as ex-facie illegal and without jurisdiction to impose additional tax on the sales made to Hyundai Motors India Ltd.

For Petitioner : Mr.R.Kumar
For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari to call for the records of the respondent dated 19.01.2012 and quash the impugned notice dated 19.01.2012 as ex-facie illegal and without jurisdiction to impose additional tax on the sales made to Hyundai Motors India Limited.

2.The learned counsel on either side submitted that the prayer sought for in the Writ Petition is covered by the decision of the Division Bench of this Court reported in 2015-5-L.W. 235 [HSI Automotives Limited, Chennai - 600 032 Vs. The State of Tamil Nadu rep by the Commercial Tax Officer, Guindy Assessment Circle, Chennai - 600 028.] wherein the Division Bench held as follows:

> "...
> 40.Therefore, on the first question of law, we are of the considered view that the Tribunal committed an error of law in treating the exempted sales effected by the petitioners to M/s.Hyundai Motors India Limited, as part of the 'taxable turnover' of the petitioner for the purposes of

Tamil Nadu Additional Sales Tax Act, 1970. Consequently, the levy of penalty was wrong, and the second question has also to be answered in favour of the petitioner."

3.The learned counsel on either side submitted that in view of the decision reported in 2015-5-L.W. 235, the Writ Petition has to be allowed.

4.In view of the submissions made by the learned counsel on either side, following the judgment reported in 2015-5-L.W. 235, the impugned notice dated 19.01.2012 is set aside and the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

va
To

The Commercial Tax Officer,
Sriperumbudur Assessment Circle,
Varadharajapuram, Poonamallee, Chennai.

+1cc to Mr.R.Kumar, Advocate sR.No.12034
+1cc to Special Government Pleader sR.No.12417

GP(CO)
sm:26.2.2018

W.P.No.5186 of 2012
and M.P.No.1 of 2012
(1/2)