In the High Court of Judicature at Madras

Dated : 29.06.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.6496 of 2009
&
M.P.No.1 of 2009

K.Packirisamy ... Petitioner

Vs.

The Commercial Tax Officer
(Now known as Asst. Commissioner (CT)
Nagapattinam Assessment Circle
Nagapattinam ...Respondent

Prayer:

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent in TIN No.33353900172/2007-2008 dated 20.012009 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioners : Mr.K.Soundararajan

For Respondent : Ms.G.Dhanamadhri
Government Advocate(Taxes)

ORDER

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate appearing for the respondent.

2. The petitioner has challenged the order of revision of assessment for the Assessment year 2007-08 under the provisions of the Tamil Nadu General Sales Tax Act. The petitioner is a dealer in cement and the allegation is that the selling price of the cement is less than the purchase price. The petitioner's case is that after selling, the dealer has supplied the stock and he has given discount and that is the reason for change in the selling price and as such, there is no suppression.

3.It is further submitted that the Proprietor of the petitioner is no more. However, the business is being carried on by the legal heirs and in respect of an earlier Assessment year, the Court has remanded the matter to the respondent for fresh consideration. The issue as to how the post sale discount has to be treated has been recently decided by the Hon'ble Supreme Court in the case of Maya Appliances (P) Ltd Vs. Additional Commercial Taxes and Ors. reported in 2018 (2) TMI 314.

In the light of the same, this writ petition is disposed of by directing the legal heirs of the petitioner to treat the impugned Assessment Order as show-cause notice and submit a reply along with the decision of the Hon'ble Supreme Court and the respondent, on receipt of the same, shall afford an opportunity of personal hearing to the legal heirs of the petitioner and redo the assessment in accordance with law. Till then, the order of stay granted by this Court shall continue. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
(Now known as Asst. Commissioner (CT)
Nagapattinam Assessment Circle
Nagapattinam

+1cc to Mr.Mr.K.Soundararajan , Advocate, S.R.No.42859
+1cc to the Special Government Pleader(Taxes), S.R.No.42437

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ssv(co)
nr 17/07/2018