

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8875 of 2010

and

M.P.No.1 of 2010

M/s.A.B.Screens,
12/2, Valipalayam 2nd Street,
Tirupur.

... Petitioner

Vs.

The Assistant Commissioner (CT),
Tirupur (Central-I) Assessment Circle,
Kumaran Road, Tirupur - 1.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in TNGST:2403042/2005-06 and quash the proceedings dated 08.03.2010 issued therein.

For Petitioner : Mr.B.Raveendran
For Respondent : Mr.O.M.Hariharan (AGP)
O R D E R

Challenging the order dated 08.03.2010 passed by the respondent in TNGST:2403042/2005-06, relating to the assessment year 2004-05, the petitioner has come up with the present writ petition.

2. When the matter was taken up for consideration, the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent submitted that the issue involved herein is squarely covered by the decision of a Larger Bench of the Hon'ble Supreme Court in the case of Kone Elevator India Pvt. Ltd. Vs. State of Tamil Nadu and Others reported in (2014) 71 VST 1 (SC) wherein, it has been held by the Larger Bench as under:

"210.Keeping in view the conclusions of the majority, expressed in the judgment of Dipak Misra, J., it is held that the decision rendered in State of Andhra Pradesh v. Kone Elevators (India) Ltd. (2005) 140 STC 22(SC) does not correctly lay down the law and it is accordingly overruled.

211. It is directed that the show-cause notices, which have been issued by taking recourse to reopening of assessment, shall stand quashed. The assessment orders which have been framed and are under assail before this Court are set aside. It is necessary to state here that where the assessments have been framed and have attained finality and are not pending in appeal, they shall be treated to have been closed, and where the assessments are challenged in appeal or revision, the same shall be decided in accordance with the decision rendered by us.

212. The petitions and the civil appeals are disposed of with no order as to costs."

3. Following the aforesaid decision, this writ petition is allowed by quashing the order dated 08.03.2010, passed by the respondent in TNGST:2403042/2005-06. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

dm

To

The Assistant Commissioner (CT),
Tirupur (Central-I) Assessment Circle,
Kumaran Road, Tirupur - 1.

+1 CC to Mr.B. Raveendran, Advocate sr 45528.

+1 CC to Spl. Govt. Pleader(T) sr 45853.

W.P.No.8875 of 2010

and

M.P.No.1 of 2010

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SV(CO)
SP(01/08/2018)