IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.988 of 2010

M/s.Good Leather Company,
rep. by its Partner K.R.Vijayan. ... Petitioner

Vs.

1.The Appellate Deputy Commissioner
(CT) Vellore,
Commercial Taxes Buildings,
Fort Round, Vellore.

2.The Commercial Tax Officer (FAC),
Gudiyattam (East) Circle,
Gudiyatham. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in his proceedings in AP.No.05/09 dated 06.11.2009 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondents : Mr.Master Ganesh, G.A. (T)

O R D E R

This writ petition is directed against the order dated 06.11.2009 passed by the first respondent/ Appellate Authority in Appeal No.05/09, whereby, the appeal preferred by the petitioner/assessee was dismissed by confirming the assessment made on the turnover of Rs.97,67,776/- @1% by the second respondent / Assessing Officer under Section 3(4) of the Tamil Nadu General Sales Tax Act, 1959.

2.When the matter was taken up for consideration, the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents submitted that the issue involved herein is squarely covered by the decision of a Division Bench of this Court in the case of Tube Investments of India Limited v. State of Tamil Nadu [(2010) 36 VST 67 (Mad)], wherein, it has been held as follows:

"56.Having regard to our above conclusions, we hold that Section 3(4) of the Act will have no application since situs of the export sales of the petitioners for the purpose of said Section was the State of Tamilnadu and by virtue of the said factual position, the applicability of Section 3(4) stands excluded for the exigibility of tax. The questions are accordingly answered in favour of the petitioners/assessee.

57.The petitions stand allowed. The impugned orders are set aside. No costs. Consequently, connected MPs are closed."

3.Following the aforesaid decision, this writ petition stands allowed and the order impugned herein dated 06.11.2009 passed by the first respondent/ Appellate Authority in A.P.No.05/09 stands quashed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

drl
To

1.The Appellate Deputy Commissioner
(CT) Vellore,
Commercial Taxes Buildings,
Fort Round, Vellore.

2.The Commercial Tax Officer (FAC),
Gudiyattam (East) Circle,
Gudiyatham.

+1cc to Mr.S.RAMANATHAN, Advocate, S.R.No.41645
+1cc to the Government Pleader, S.R.No. 42445

W.P.No.988 of 2010

TR(24/07/2018)