IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6651 of 2013 & M.P.No.1 of 2013

Cozy Furnitek Pvt. Limited,
rep. by its Director, Mehul Vasant,
No.20, 54th Street, Ashok Nagar,
Chennai-600 083. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.20, 88th Street, Kamarajar Salai,
Ashok Nagar Chennai. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records on the respondent in TNGST/1423280/2006-07 dated 31.01.2013 and quash the impugned proceedings dated 31.01.2013.

For Petitioner : Mr.R.Kumar

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate

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O R D E R

Heard Mr.R.Kumar, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate for the respondent.

2.The petitioner is before this Court challenging a revision of assessment passed under the provisions of the Tamil Nadu General Sales Tax Act, 1959 for the assessment year 2006-07 (hereinafter referred to as "the TNGST Act").

3.The impugned proceedings are unsustainable for the following three reasons:-

(i) firstly, the petitioner had exercised option for paying tax at compounded rate as per Section 7-C of the TNGST Act. It has been held by this Court in the case of Sinetch v. Commercial Tax Officer reported in [2008] 15 VST 309 (Mad.) that, once an option is exercised by a dealer under the said provision, the question of reassessment does not arise. Therefore, the impugned reopening is unsustainable.

(ii) secondly, the assessment under the TNGST Act was completed and the assessing officer by order dated 23.03.2010, refunded the excess amount of tax as Rs.1,90,200/-. Therefore, subsequent, reopening cannot be done for the very same year.

(iii) thirdly, the respondent misdirected himself by referring to the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the purpose of reopening the assessment under the provisions of the TNGST Act. Though this point was specifically raised by the petitioner in their objections dated 30.10.2012, the respondent has not even referred to the same. That apart, even in the counter affidavit, the said contention has not been dealt with by the respondent.

Thus, for the above reasons, it is held that the impugned revision of assessment is wholly without jurisdiction. Accordingly, this writ petition is allowed and the impugned order is quashed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Saligramam Assessment Circle,
No.20, 88th Street, Kamarajar Salai,
Ashok Nagar Chennai.

+1cc to the Special Government Pleader SR.No.7026
+1cc to Mr.R.Kumar, Advocate SR.No.6800

W.P.No.6651 of 2013

VS 28.02.2018