IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/1/2018

C O R A M

The Honourable Mr.Justice S.Manikumar
a n d
The Honourable Mrs.Justice V.Bhavani Subbaroyan

Tax Case No.8 of 2018

The State of Tamil Nadu
rep. By the Deputy Commissioner
(Comml Taxes)
Coimbatore Division
Coimbatore 18. ... Petitioner

Vs

Tvl. Kavitha Traders
17 Old Cloth Bazaar Street
Tirupur. ... Respondent

Petition filed under Section 38 of the TNGST Act, 1959, to revise the order of the Sales Tax Appellate Tribunal (Additional bench), Coimbatore, dated 16/3/1990 passed in Coimbatore Tribunal Appeal No.CTMP No.46/90. Against the order Dated 16.2.88 passed by the Appellate Asst.Commissioner (CT) Pollachhi and as against the order dt 17.11.87 passed by the commercial tax department Tirupur.

For petitioner ... Mr.V.Hari Babu
Additional Government Pleader
(Taxes)

O R D E R

(Order of the Court was made by S.Manikumar,J)

Tax Case Revision Petition has been filed to revise the order, dated 16/3/1990, passed in CTMP No.46/90, by the Sales Tax Appellate Tribunal (Additional bench), Coimbatore.

2. Material on record discloses that on 17/11/1987, the Assessing Officer levied penalty of Rs.8030, under Section 12 (5) (iii) of the then Tamil Nadu General Sales Tax Act, r/w. Section 9 (2) of the Central Sales Tax Act, 1956. Penalty of Rs.200/- was also imposed under Section 12 (5) (ii) of the TNGST Act and 9 (2) of the CST -Act. Being aggrieved, Kavitha Traders, dealers in jaggery, Tirupur, filed an appeal before the Appellate Assistant Commissioner (CT), Pollachi, in AP.CST.No.140/87. After hearing the parties, Appellate Assistant Commissioner (CT), Pollachi, vide order, dated 16/2/1988, ordered as hereunder:-

> “Penalty under Section 9 (2) of the CST Act r/w. Section 12 (5) (iii) of the TNGST Act, is refixed at Rs.1,689/- being 100% of the tax due on the turnover of Rs.42,244/- short reported in the monthly returns.
>
> In the result, the appeal is modified.

	Turnover	Tax	Penalty
Relief granted	Rs.91,630/-	@ 4% - Rs.3,665/-	Rs.6,341/-

3. State of Tamil Nadu, represented by the Deputy Commissioner (Commercial Taxes), Coimbatore Division, Coimbatore has filed a petition in E.P.No.98 of 1988 in C.T.A.No.328 of 1988, before the Sales Tax Appellate Tribunal (Additional Bench), Coimbatore, to set aside the order of the Appellate Assistant Commissioner and to restore the order of the Assessing Officer.

4. The said application has been captioned as “Enhancement Petition”, under Section 36 (3-A) of the TNGST Act. Appeal No.328/88 and CTMP No.46/90 were posted before the Sales Tax Appellate Tribunal (Additional Bench), Coimbatore, on 8/9/1988, 24/11/1988, 21/12/1988, 8/2/1989, 17/4/1989, 15/6/1989, 14/8/1989, 10/11/1989, 7/2/1990 and 16/3/1990. Kavitha Traders/appellant therein, did not appear. Hence appeal was dismissed and C.T.M.P.No.46 of 1990, was also dismissed.

5. Against the order made in C.T.M.P.No.46 of 1990, dated 16/3/1990, State of Tamil Nadu, represented by the Deputy Commissioner, Coimbatore Division, has filed the instant Tax Case.

6. Though Mr.V.Hari Babu, learned Additional Government Pleader (Taxes), for the revision petitioner has made

submissions, to set aside the above said order, we are not inclined to do so.

7. Accordingly, Tax Case Revision is dismissed. No costs

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mvs

To

1.The Sales Tax Appellate Tribunal (Additional Bench),Coimbatore.

2.The Appellate Assistant Commissioner (CT), Pollachhi.

3.The Commercial Tax Officer, Tiruppur.

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RRK(12/02/2018)