IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21621 of 2013 and M.P.Nos.1, 2 & 3 of 2013

M/s.Balaji Agencies, rep. by its
Managing Partner-B.Ramesh,
No.222-A, Salem Road,
Namakkal-637 001, Namakkal District. ...Petitioner

Vs.

The Assistant Commissioner (CT),
Namakkal (Town), Namakkal,
Namakkal District. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceeding in TIN:33083121653/2010-11 dated 05.04.2013 of the respondent quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mrs.G.Dhanamadhri
Government Advocate

O R D E R

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

2.The petitioner has filed this writ petition challenging the notice issued by the respondent dated 05.04.2013, proposing to tax the petitioner on the sales of primers at 12.5% based on a clarification issued by the Commissioner. Indian Small Scale Paint Association and others moved this Court challenging the clarification in W.P.Nos.12019 of 2013 etc., batch. The said writ petitions were dismissed, against which, the petitioners therein preferred Writ Appeals in W.A.Nos.1660, 1731 and 2135 of 2013. The Division Bench of this Court, to which I was a party, by judgment dated 26.08.2014, granted liberty to the appellants to file applications under Section 48-A(4) of the Tamil Nadu Value Added Tax Act, 2006 to seek for review of the said clarification. Pursuant to the direction issued by the Division Bench, review applications were filed, which were heard by the Authority for Clarification and Advance Ruling and the authority by order dated 23.10.2014, clarified that the rate of tax shall be at 5%.

3.In the light of the above clarification dated 23.10.2014, which binds the respondent, the respondent cannot now propose to tax the petitioner at 12.5%. Accordingly, this writ petition is allowed and the impugned order is set aside giving liberty to the respondent to issue notice to the petitioner to assess the petitioner's transaction at 5%. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

abr

To

1. The Assistant Commissioner (CT),
   Namakkal (Town), Namakkal,
   Namakkal District.

2. The Commissioner
   Commercial Taxes, Chennai 5.

+1 CC to M/s.R. Hemalatha, Advocate sr 1233.
+1 CC to Spl. Govt. Pleader (T)sr 1391

W.P.No.21621 of 2013

VGI(CO)
SP(02/02/2018)