IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

T.C.(R) No.60 of 2009

M/s.C.Shanmugam & Co.,
No.16, Muthugramani Street
Periamet, Chennai - 600 003. .. Petitioner

Vs

The State of Tamil Nadu,
Rep by the Joint Commissioner of
Commercial Taxes, Chennai,
PAPJM Building, Greams Road
Chennai - 600 006. .. Respondent

Prayer : Tax Case Revision filed under Section 38 of the TNGST Act, 1959 and Rule 30 of the TNGST Rules, 1959, to revise the orders of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai, passed in T.A.No.58 of 2007 dated 10.11.2008 and appeal aginst the order of the Appellate Assistant Commissioner (CT) III, 1st floor, Kuralagam Annexe, Chennai -108 dated 02/01/2007 in Appeal No. & Year AP.173/2003 and appeal against the order of the Commercial Tax Officer, Periamet Assessment Circle 3, Ritnandar Avenue, Chennai -7 in Assessment Number TNGST /0420003/2001-02 dated 28/02/2003.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Haribabu
Additional Govt. Pleader (Taxes)

ORDER
[Order of the Court delivered by T.S.SIVAGNANAM,J.]

This Tax Case Revision has been filed by the assessee questioning the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai, in T.A.No.58 of 2007 dated 10.11.2008.

2. This tax case revision has been admitted on the following substantial questions of law :

1. Whether the Appellate Tribunal is right in relying on the decision in the case of All India Skins & Hides Tanners and Merchants Association Vs. CTO, (2002) 127 STC 491, as the Supreme Court of India, subsequently, set aside the said decision and remanded the matter to the authorities to go into the question of relationship between the Association and its Members?

2. Whether the Appellate Tribunal is right in proceeding as if distribution of wattle extract by the Association to its Members constitute sale, without going into the question of the nature of the relationship between the Association and its Members inter se?

3. Whether common sale is liable to sales tax merely because of the use theory on the ground that it is used by the Leather Industry in processing leather?

3. The learned counsel appearing for the assessee as well as the learned Additional Government Pleader (Taxes), would submit that the decision of this Court in T.C.No.56 of 2009, would squarely cover the case on hand.

4. Heard Mr.B.Raveendran, learned counsel appearing for the assessee and Mr.V.Haribabu, learned Additional Government Pleader (Taxes) for the respondent.

5. Though the counsel on both sides submitted that the questions raised in this case are identical to the one in T.C.No.56 of 2009, and the decision in T.C.No.56 of 2009, would squarely cover the case on hand, this Court, on perusal found that all the three questions raised in this tax case are in sum and substance, the same as question No.3 in T.C.No.56 of 2009.

6. According to the counsel, the issue in question No.3 in T.C.No.56 of 2009, was pending for consideration before the Division Bench of this Court, in yet another case. In the said circumstances, this Court is not in a position to decide on the issues raised in questions Nos.1 to 3 in this revision, as the same are pending before the Division Bench of this Court. Accordingly, this revision petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

ds

To:
1.The Joint Commissioner of
Commercial Taxes, Chennai,
PAPJM Building, Greams Road
Chennai.

2. The Sales Tax Appellate Tribunal,
(Additional Bench), Chennai.

3. The Appelate Assistant Commissioner(CT) III,
1st Floor, Kuralagam,
Annexe, Chennai-108.

4. The commercial Tax Officer,
Periamet Assessment Circle,
3 Ritherdon Avenue,
Chennai-7.

+1cc to Special Government Pleader SR.No.40226

T.C.(R) No.60 of 2009

KJI(CO)
GN(27/08/2018)