IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.06.2018
CORAM

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

T.C.(Revision) No.1519 of 2006

The State of Tamil Nadu
Represented by the Deputy Commissioner (CT)
Madurai Division
Madurai. .. Petitioner

Vs

Muthu Automobiles
No.12, Petchiamman Padithurai Road
Madurai .. Respondent

Prayer : Tax Case (Revision) filed under Section 38(1) of the Sales Tax Act., 1959 before the Tamil Nadu Taxation Special Tribunal to revise the order of the Sales Tax Appellate Tribunal (AB) Madurai dated 14.03.2000 in Madurai Tribunal State Appeal No.581/99 against the oder of Appellate Assistant Commissioner of (CT) Madurai (North) appeal no.629/97 TNGST 4900098/95-96 dated 15/9/1997 and against the order of Deputy Commercial Tax Officer, Tamilsangam Road Circle, Madurai-20 TNGST No.4900709/95-96 dt.4/4/1997.

For Petitioner : Master Ganesh
Government Advocate

For Respondents : Mr.V.Sundareswaran [R2]

ORDER

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

Heard Master Ganesh, learned Government Advocate appearing for the petitioner and Mr.V.Sundareswaran, learned counsel appearing for the second respondent.

2. This Tax Case Revision is directed against the order passed by the Tamil Nadu Taxation Special Tribunal, Chennai in M.T.S.A. Nos.581/99.

3. This Tax Case Revision has been admitted on the following substantial question of law :

"Whether the Tribunal was right in coming to the conclusion that the dismantled part purchased by the assessee is not a different commercial commodity than the one sold by the assessee and thereby the assessee is entitled to second sale exemption?"

4. The learned counsel on either side submitted that the substantial question of law as framed has been answered in favour of the assessee and against the revenue in the case of State of Madras Vs. Raman and Co., And Ors. reported in 1974 33 STC 1 Mad. This decision was confirmed by the Hon'ble Supreme Court in State of Tamil Nadu Vs. Raman & Co. and Others in [1994 SC 185].

5. The effect of the decisions cited supra is being that an assessee had purchased the condemned railway coaches sold by the Railway Department and also the components of Nissen huts sold by the Director of Supplies and Disposals, Madras, which later he dismantled it and sold the resultant timber and iron materials in bulk as scrap materials. Since the scraps are exempted from tax, and that what the assessee had purchased is the scrap and later when he sold the scrap, he was only a second seller.

6. The only distinction in this instant case is that, the assessee herein had purchased the condemned buses and lorries which are unusable and had dismantled the same and sold it as scrap. In the considered opinion, this Court is of the view that the assessee is entitled to second sale exemption and the substantial question of law as framed is answered in favour of the assessee and against the revenue.

7. In the result, this Tax Case Revision is dismissed and the order of the Sales Tax Appellate Tribunal (AB) Madurai dated 14.03.2000 in Madurai Tribunal State Appeal No.581/99 is hereby confirmed. No costs.

ds

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:
1. The Sales Tax Appellate Tribunal (AB)
Madurai.

2.The Deputy Commercial Tax Officer,
Tamil Sangam Road Circle,
Madurai 20.

3.The Assistant Commissioner of (Commercial Tax),
Madurai(North)

4.The Deputy Commissioner (CT)
Madurai Division, Madurai.

+1cc to Special Government Pleader Sr.No.38342

SJ(CO)
sm:3.7.2018

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