

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29922 of 2008

and

M.P.No.1 of 2008

M/s.Guhan Sanjeevi Enterprises,
rep. by its Partner, S.Vimal,
42, Venkata Maistry Street, Chennai-1. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Mannady (East) Assessment Circle,
4th Floor, Wavoo Complex,
NSC Bose Road, Chennai-1. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the respondent in his proceedings in TNGST/1242059/2005-06 dated 20.10.2008 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate

O R D E R

Heard Mr.S.Ramanathan, learned counsel for the petitioner and Mrs.Dhanamadhri, learned Government Advocate for the respondent.

2.The learned counsel on either side agreed that the legal issue involved in this writ petition is squarely covered by a decision of the Hon'ble First Bench of this Court in Sree Murugan Engineering Products v. Commercial Tax Officer reported in 148 STC 419, wherein it was held as follows:

"the issue involved is covered by several Judgments of the High Court and the Supreme Court, and it has been consistently held that for the contravention of the condition for Form XVII, tax

and penalty could be imposed only against the purchasing dealers and not against the seller, as per Section 3(3) of the Act.”

3.The above referred decision was followed by this Court in the case of M/s.Tony Engineerings v. Commercial Tax Officer in W.P.No.20464 of 2007 dated 06.09.2007.

4.Thus, following the above referred decision, it is held that tax and penalty could be imposed only against the purchasing dealers and not against the seller/petitioner. Accordingly, this writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Mannady (East) Assessment Circle,
4th Floor, Wavoo Complex,
NSC Bose Road, Chennai-1.

+ 1 cc to Mr.S.Ramanathan Advocate, SR.5680
+ 1 cc to The Special Govt.Pleader, SR.6112

W.P.No.29922 of 2008

nr 20/02/2018

सत्यमेव जयते

WEB COPY