

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P.Nos.18484 and 18485 of 2010 and
M.P.Nos. 1 and 1 of 2010

Tvl. Bachi Shoes,
Represented by its
Partner P.R. Viswanath

... Petitioner
(in both the WPs)

Vs.

The Assistant Commissioner (C.T.)
Vellore (South) Assessment Circle,
C.T.Buildings,
Fort Round,
Vellore - 1.

... Respondent
(in both the WPs)

Common Prayer in both WPs:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the respondent in TNGST 4220564/05-06 dated, 30.06.2010 and 4220564/04-05 dated, 30.07.2008 respectively and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan

For Respondent : Mr.M. Hariharan

Additional Government Pleader

C O M M O N O R D E R

Challenging the orders passed by the respondent for the assessment years 2004-05 and 2005-06, the petitioner has come up with the present writ petitions.

2. By the orders impugned in these writ petitions, the respondent levied tax under Section 3(4) of the Tamil Nadu General Sales Tax Act, 1959.

3. When the matters were taken up for consideration, the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent submitted that

the issue involved in this writ petition is squarely covered by the decision of a Division Bench of this Court in [2010] 36 VST 67 (Mad), Tube Investments of India Ltd., v. State of Tamil Nadu, wherein it has been held as follows:

"Having regard to our above conclusions, we hold that section 3(4) of the Act will have no application since situs of the export sales of the petitioners for the purpose of said section was the State of Tamil Nadu and by virtue of the said factual position, the applicability of section 3(4) stands excluded for the exigibility of tax. The questions are accordingly answered in favour of the petitioners/assessee."

4. Following the above said decision, these Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (C.T.)
Vellore (South) Assessment Circle,
C.T. Buildings,
Fort Round,
Vellore - 1.

+2 Ccs to Mr.K. Soundararajan, advocate sr 55147.
+1 CC to Spl. Govt. Pleader (T) sr 55113.

W.P.Nos.18484 and 18485 of 2010

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SP(18/09/2018)